

Report on the

Board of Funeral Service

Montgomery, Alabama



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June 22, 2011

Senator Paul Bussman
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Senator Bussman,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the **Alabama Board of Funeral Service** in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the **Alabama Board of Funeral Service**, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,



Ronald L. Jones
Chief Examiner

Examiner
Daniel Dupree

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PROFILE

Purpose/Authority

Act 214, *Acts of Alabama 1975*, codified as the *Code of Alabama 1975*, Sections 34-13-1 through 34-13-152 created the Alabama Board of Funeral Service to regulate procedures for making final disposition of human dead, including embalming and funeral directing. The board inspects funeral home establishments and investigates complaints. Act 2006-608, *Acts of Alabama 2006*, codified as the *Code of Alabama 1975*, Section 22-19-5 requires the board to approve an identification system for dead human bodies to be followed by funeral establishments.

<u>Characteristics</u>	
Members and Selection	<p>Seven (7) members. Appointed by the governor from a list of three nominees selected by the licensees of the board. Only one licensed funeral director from each establishment may vote for a nominee.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-20(a)(c)(d).</p>
Term	<p>Two-year terms, staggered. May be reappointed for one additional two-year term. No person shall serve for more than four years.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-20(d).</p>
Qualifications	<ul style="list-style-type: none">• United States citizen and Alabama resident.• Four must be licensed, practicing embalmers for the last ten consecutive years immediately preceding appointment. Five currently meet this qualification.• Three must be licensed, practicing funeral directors for the last ten consecutive years immediately preceding appointment. All seven meet this qualification.• Members must continue active practice during terms. <p><i>Code of Alabama 1975</i>, Section 34-13-20(d).</p>
Racial Representation	<p>Not more than four members may be of the same race. Current Membership is: 4 Black 3 White</p> <p><i>Code of Alabama 1975</i>, Section 34-13-20(b).</p>

Geographical Representation	<p>Members must represent the seven congressional districts. Each of the current members represents one congressional district.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-21.</p>
Consumer Representation	No statutory requirement.
Other Representation	<p>Membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-20(b).</p>
Compensation	<p>\$50.00 per day, not to exceed 10 days per year, spent attending to the business of the board, plus necessary traveling expenses and necessary expenses incidental to attending to the business of the board.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-23(c).</p>
<u>Operations</u>	
Administrator	<p>Warren S. Higgins, Executive Secretary Appointed by the board. Current annual salary \$60,727.68. Salary set by the board.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-23(c).</p>
Location	<p>Alabama Statehouse 11 South Union St., Suite 204 Montgomery, AL 36130 Office Hours: 8:00 – 4:30, M-F</p>
Examinations	<p>National funeral director examination National embalmer examination (*)</p> <p>Both examinations are compiled, graded, and administered by the International Conference of Funeral Service Examining Boards.</p> <p>The exams are given at the applicant's convenience at Pearson VUE testing centers in Birmingham, Decatur, Dothan, Mobile, and Montgomery.</p> <p>Examination fees are paid by the applicant directly to the Conference of Funeral Service Exam Board.</p>

An examination covering Alabama funeral service laws and regulations is administered quarterly in Montgomery to funeral director and embalmer license candidates by the Alabama Board of Funeral Service.

Code of Alabama 1975, Sections 34-13-72 and 73 (Funeral Directors), and Sections 92-94 (Embalmers).

Pass / Fail Statistics, Fiscal Years 2007 – 2010

2007	Taken	Pass	Fail	Pass/Fail %
Director(&)	125	39	86	31% / 69%
Embalmer(*)	3	1	2	33% / 67%
State Law	108	90	18	83% / 17%
2008	Taken	Pass	Fail	Pass/Fail %
Director	101	44	57	44% / 56%
Embalmer	1	0	1	0% / 100%
State Law	103	76	27	74% / 26%
2009	Taken	Pass	Fail	Pass/Fail %
Director	33	14	19	42% / 58%
Embalmer	0	0	0	0
State Law	67	54	13	81% / 19%
2010	Taken	Pass	Fail	Pass/Fail %
Director	37	9	28	24% / 76%
Embalmer	0	0	0	0
State Law	64	53	11	83% / 17%

(*) Two examinations are available for embalmers, a national and a state examination. Most embalmer applicants complete the national examination as a part of their educational curriculum and do not apply for a license until after passing the examination. The applicants who applied for the state examination through the board, during the 2007 through 2010 fiscal years attended the following Alabama educational institutions:

Jefferson State College – One tested, failed, then passed
 Bishop State College – One tested and failed
 Out of state institution - One tested and failed

In Alabama, only Bishop State College and Jefferson State College offer an approved embalmer curriculum.

(&) A completed funeral service education curriculum is not a requirement for being licensed as a funeral director.

Source: Associate Executive Secretary – Charles Perine

Renewals	<p>All licenses expire on October 1 of each year. <i>Code of Alabama 1975</i>, Section 34-13-53(b).</p> <p>The board may reinstate a lapsed license at its discretion, if application is made within six months and is accompanied by payment of all penalties and lapsed fees, from the time of the lapse to date of reinstatement. The penalty is \$25 to reinstate a lapsed license. <i>Code of Alabama 1975</i>, Section 34-13-55.</p>																
Licensees	<p>Current Licenses as of November 30, 2010:</p> <table border="1"> <thead> <tr> <th>Type</th><th>Number</th></tr> </thead> <tbody> <tr> <td>Funeral Establishments</td><td>466</td></tr> <tr> <td>Funeral Directors</td><td>1,725</td></tr> <tr> <td>Embalmers</td><td>866</td></tr> <tr> <td>Practical Embalmers *</td><td>109</td></tr> <tr> <td>Apprentice Funeral Directors</td><td>395</td></tr> <tr> <td>Apprentice Embalmers</td><td>193</td></tr> <tr> <td>Total</td><td>3,754</td></tr> </tbody> </table> <p>*Grandfathered classification according to the <i>Code of Alabama 1975</i>, Section 34-13-1(20)</p>	Type	Number	Funeral Establishments	466	Funeral Directors	1,725	Embalmers	866	Practical Embalmers *	109	Apprentice Funeral Directors	395	Apprentice Embalmers	193	Total	3,754
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Total	3,754																
Reciprocity	<p>The board may, but is not required to, recognize and issue, licenses for funeral directing or embalming to licensees of other states without examination if:</p> <ul style="list-style-type: none"> • The applicant pays a fee of \$100, • The board determines that the applicant's qualifications meet or exceed Alabama's minimum qualifications and that a written examination would be superfluous. <p>The board does issue licenses to applicants who meet these conditions. There are no state-specific agreements.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-51(a).</p>																
Continuing Education	No statutory requirement.																
Employees	Three at-will employees, no contracts.																
Legal Counsel	Jeff Long, an employee of the Attorney General's Office																
Subpoena Power	<p>Subpoena of witnesses only.</p> <p><i>Code of Alabama 1975</i>, Section 34-13-26(d).</p>																

Internet Presence	http://www.fsb.alabama.gov – Information available includes: <ul style="list-style-type: none"> • Contact Information • Administrative hearing procedures • A list of Staff / Board members • Application forms • Administrative Code / Statutes • Links (Associations, etc.) • Quarterly Newsletter / Meeting Notice • A listing of licensed funeral establishments
Attended Board Member Training	No staff or board members have attended in the past four years.
<u>Financial</u>	
Source of Funds	Licensing fees, examination fees, inspection fees, and penalties.
State Treasury	The board operates through the State Treasury (Fund 0362). <i>Code of Alabama 1975</i> , Section 34-13-23(h).
Required Distributions	None
Unused Funds	The board retains year-end fund balances. <i>Code of Alabama 1975</i> , Section 34-13-23(h).

SIGNIFICANT ISSUES

Significant Issue 2011-1

Senate Bill 94 enacted as Act 2011-623 became law at the end of the 2011 Legislative Session. The act makes significant changes to the funeral service licensing law effective October 1, 2011. Act 2011-623 is included in the appendices of this report, and a summary of its provisions can be found on pages 31-32.

Significant Issue 2011-2

Receipts are not always deposited promptly, a condition that unnecessarily increases the risk of loss or misuse of state funds. In a sample of 24 payments received by the board during the period 9-1-2008 through 10-30-2010, eight did not have a date of receipt recorded in the board's records from which to make a determination as to the timeliness of deposit. Of the remaining sixteen, thirteen were deposited in excess of nine business days after receipt. Of these thirteen, three were deposited in excess of twenty-five business days after receipt, and one was deposited seventy-eight business days after receipt. For those with sufficient information to make a determination, the average time from receipt to deposit was seventeen days.

Significant Issue 2011-3

The board did not file timely SMART performance information with the Department of Finance for the 2010 fiscal year, or for the previous four fiscal years. The matter of filing 2010 performance information was brought to the board's attention on January 13, 2011 by the Examiners of Public Accounts, and the information was prepared and submitted for the 2010 fiscal year.

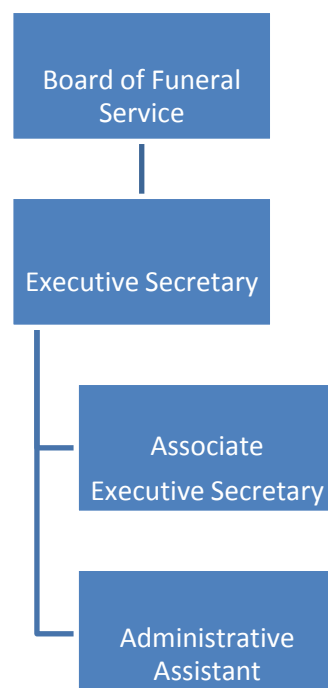
The state's SMART budgeting system requires each agency to submit performance goals and objectives to the Department of Finance - the goals to be stated as long-term, multi-year targets, which are to be achieved through accomplishment of stated objectives, which are single-year targets. The agency reports its progress toward achievement of the objectives on annual Quarterly Performance Reports, which are available to the public at the state's Internet website.

The SMART Governing Manual for Agency Planning requires that the 4th Quarter/Annual Quarterly Performance Report be filed with the Office of Executive Planning by October 30th of the applicable year.

STATUS OF PRIOR FINDINGS

Prior findings and significant issues have been resolved.

ORGANIZATION



PERSONNEL

The board is specifically authorized by law to employ, and does employ an executive secretary and an associate executive secretary whose duties are specified in the *Code of Alabama 1975*, Section 34-13-23. Section 34-13-23(d) provides that, “The executive secretary and associate executive secretary shall not be of the same race.” The board also employs an administrative assistant. All are employed without a contract outside the state’s Merit System.

Jeffrey Long, an employee of the Attorney General’s Office, provides legal counsel to the board.

Schedule of Employees Sex/Race							
	#	B/M	W/M	B/F	W/F	O/M	O/F
Executive Secretary	1		X				
Associate Executive Secretary	1	X					
Administrative Assistant	1			X			
Total	3	1	1	1			

B/M=black male, W/M=white male, B/F=black female, W/F=white female, O/M=other male, O/F=other female

PERFORMANCE CHARACTERISTICS

Number of Licensees per Employee – 1,251 as of November 30, 2010

Number of Persons per Licensee in Alabama and Surrounding States

	Population*	Licensees	Persons Per Licensee
Alabama	4,779,736	3,754	1,273
Florida	18,801,310	7,637	2,462
Georgia	9,687,653	5,007	1,935
Mississippi	2,967,297	**	n/a
Tennessee	6,346,105	3,994	1,589

*2010 US Census

** Data not available

Operating Disbursements per Licensee (Fiscal Year 2009-10) - \$54.99

Notification to Licensee of Board Decisions to Amend Administrative Rules

The board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. Licensees are also notified of proposed changes in the board’s quarterly newsletter, which is posted on the board’s Internet website.

Inspections

The *Code of Alabama 1975*, Section 34-13-111 requires the board to conduct at least an annual inspection of all funeral establishments. The executive secretary and the associate executive secretary conduct all inspections.

Schedule of Inspections 2007 through 2009 Fiscal Years				
Inspections	<u>2010</u>	<u>2009</u>	<u>2008</u>	<u>2007</u>
Pass	446	441	439	424
Fail	14	13	21	26
Total	460	454	460	450
Source: Inspection statistics provided by the Associate Executive Secretary				

When an establishment is found to be noncompliant of funeral service laws or regulations, the inspector may give the establishment a specified period of time, to be set at the discretion of the investigator, to correct the violations.

COMPLAINT HANDLING

Board Rule 395-X-4-.03 provides the procedures for documentation, receipt, and investigation of complaints relating to board licensees and illegal practices. The majority of complaints consist of consumers who were not satisfied with the services received. *

Complaint Procedures *

Initial Contact/Documentation	The board accepts only formal written complaints, unless in the discretion of the board representative (executive secretary or assistant executive secretary) receiving the complaint there is sufficient information in an oral complaint to warrant further investigation.
Anonymous Complaints	The board accepts anonymous written complaints.
Investigative Process	The executive secretary and the associate executive secretary investigate written complaints.
Probable Cause Determination	After an investigation is concluded, if the investigative committee (legal counsel, one board member, executive secretary) determines no need for further action, due to no probable cause or lack of evidence, the complaint is dismissed.
Resolution Without Formal Hearing	If it is determined that there is a violation of any provision of the board, a settlement agreement, consisting of a fine and suspension of license (usually stayed for two years), may be offered to the licensee. The licensee can decline the agreement and chose to have an administrative hearing.

Formal Hearing	<p>If the investigative committee determines that a formal hearing is necessary, the board and its staff informs the accused licensee and performs other required procedures set forth in Title 34, Chapter 13, and Title 41, Chapter 22, <i>Code of Alabama 1975</i>, relating to administrative hearings.</p> <p>If a board member is involved in the investigation or in deciding the necessity of a hearing, the member does not participate in hearing the merits of the case or the final decision process of the hearing.</p>
Notification of Resolution to the Complainant	Complainants are notified of the resolution of their complaint by letter.

Schedule of Complaints Resolved 2008 through 2010 Fiscal Years					
Year/Number Received	Year/Number Resolved				Pending
	2008	2009	2010	2011 (1)	
2008 / 23	2	0	0	0	21*
2009 / 3		0	0	0	3*
2010 / 8			5	1	2
2011 / 6				5	1
(1) As of February 7, 2011					
Source of data: Board's log of complaint status reports					

* - Complete and accurate complaint records were not available for these years.

Average Time to Resolve Complaints, FY 2010-2011 – 7 days

SMART GOVERNING

2010 FY				
Goals			Comments	
To list 100% of all licensees through an online directory by FY 2012.			Goal appears reasonable and is consistent with the mission of the board.	
Objective	Unit of Measure	Target	Reported	Comments
(O1 – Quality) Percentage of licensees listed on website.	% of licensees	100%	0%	Objective appears reasonable.
(O2 – Efficiency) Maintain current cost of licensees.	Cost per licensee	\$108.00	\$56.27	<p>Objective does not have a corresponding goal.</p> <p>The target cost of \$108/license to be maintained could not be recreated from records.</p> <p>Reported cost could be recreated from records.</p>

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

Federal Trade Commission (FTC) – Both the Alabama Board of Funeral Service and the FTC require pricing disclosures for funeral services and merchandise associated with chosen funeral services (package pricing). The FTC requires disclosure of not only packaged services, but also of individual items associated with those services and the availability of unbundled services and merchandise. Representatives from FTC engage in undercover shopping to discover violations of federal funeral pricing disclosure regulations. The federal regulations prohibit misrepresentations about legal, crematory, and cemetery requirements pertaining to disposition of human remains. Federal regulations also prohibit certain unfair practices, such as embalming for a fee without prior permission or requiring consumers to purchase caskets when they intend to cremate the remains or conditioning the purchase of any funeral goods and services on the purchase of any other funeral goods and services.

State Exemption from FTC Regulation – Although the federal regulations apply to all funeral establishments, there is an exemption for individual states, if the state's laws offer equal or greater protection and the state effectively enforces its laws. Federal regulations in 16 CFR 453.9 State exemptions, provides that, "If, upon application to the Commission [FTC] by an appropriate state agency, the Commission determines that: (a) There is a state requirement in effect which applies to any transaction to which this rule applies; and (b) That state requirement affords an overall level of protection to consumers which is as great as, or greater than, the protection afforded by this rule; then the Commission's rule will not be in effect in that state to the extent specified by the Commission in its determination, for as long as the State administers and enforces effectively the state requirement." *According to the executive secretary, Alabama has not applied for the exemption.*

Federal Occupational Safety and Health Administration (OSHA) – OSHA regulates funeral establishments, particularly as to safety issues surrounding the presence of blood borne pathogens and formaldehyde.

Alabama Department of Insurance – The Department of Insurance regulates pre-need sales of funeral and cemetery services by licensing pre-need entities as required by Alabama's "Pre-Need Funeral and Cemetery Act of 2002." The Department of Insurance assumes operations (receivership) of insolvent funeral establishments and cemeteries when necessary. Receivership means that all of the assets of an entity are placed under the stewardship of the Department of Insurance chief receiver, whose official actions are supervised by the court. According to the Pre-need Division of the Department of Insurance, the Board of Funeral Service provides helpful information concerning pre-need activity.

FINANCIAL INFORMATION

Source of funds

The board operates on funds consisting of licensing fees, inspection fees, and penalties.

Funds/Accounts

The board operates through the State Treasury (Fund 0362), and retains its remaining balance at year end, as required by *Code of Alabama 1975*, Section 34-13-23(h).

Schedule of Fees

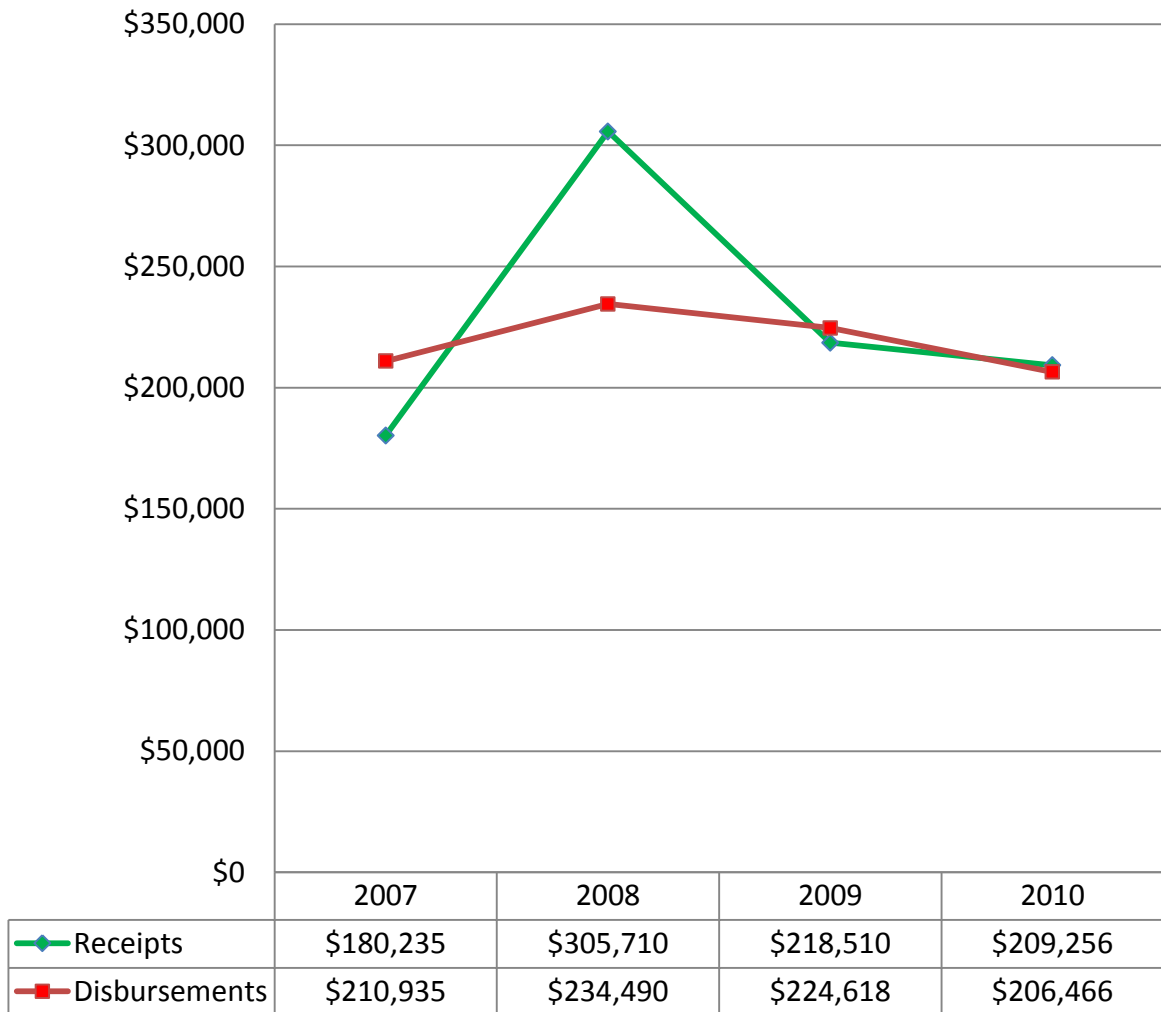
Fee Type / Purpose	Statutory Authority	Rule	Amount Authorized	Amount Collected
Funeral Director Application Fee	34-13-70	395-X-2-.04	≤ \$100.00	\$50.00
Funeral Director License Renewal	34-13-53	395-X-2-.03	≤ 50.00	50.00
Embalmer Application Fee	34-13-90	395-X-2-.04	≤ 100.00	50.00
Embalmer License Renewal Fee	34-13-53	395-X-2-.03	≤ 50.00	50.00
Practical Embalmer License Renewal Fee	34-13-53	395-X-2-.03	≤ 50.00	50.00
Establishment Operator Application Fee	34-13-113	395-X-2-.04	≤ 300.00	200.00
Establishment Operator Renewal Fee	34-13-53	395-X-2-.03	≤ 100.00	100.00
Apprentice Application Fee	34-13-130	395-X-2-.04	≤ 20.00	20.00
Apprentice Renewal Fee	34-13-131	395-X-2-.03	≤ 20.00	20.00
Reciprocity License	34-13-51	None	100.00	100.00
Establishment Initial Inspection Fee	34-13-111	395-X-4-.01	35.00	35.00
Establishment Re-Inspection Fee	34-13-111	395-X-4-.01	75.00	75.00
Establishment Annual Inspection Fee	34-13-111	395-X-4-.01	35.00	35.00
Establishment License Transfer	34-13-111	None	25.00	25.00
Establishment, New Branch or Location	34-13-111	None	250.00	250.00
Establishment, License Name Change	34-13-114	None	25.00	25.00
Special Operating Permit	34-13-74	None	25.00	25.00
Lapsed License Penalty	34-13-55	395-X-2-.02	25.00	25.00

Schedule of Receipts, Disbursements, and Balances

October 1, 2006 through September 30, 2010

	2009-2010	2008-2009	2007-2008	2006-2007
Receipts				
License Fees (*)	\$ 209,256.25	\$ 218,510.00	\$ 305,710.00	\$ 180,235.00
Disbursements				
Personnel Costs	124,493.74	138,409.10	133,938.41	130,226.96
Employee Benefits	48,804.62	52,047.32	49,218.57	45,578.36
Travel In state	5,095.15	5,941.77	8,258.75	5,990.08
Repairs and Maintenance	-	476.99	537.88	-
Rentals and Leases	12,961.00	11,991.39	13,070.32	10,615.06
Utilities and Communications	8,290.17	7,139.66	7,524.45	4,462.75
Professional Services	3,138.39	4,527.54	17,195.85	9,273.43
Supplies, Materials, and Operating Expenses	3,683.12	4,084.07	4,746.06	4,788.07
Total	206,466.19	224,617.84	234,490.29	210,934.71
Excess (Deficiency) of Receipts over Disbursements	2,790.06	(6,107.84)	71,219.71	(30,699.71)
Cash Balances at Beginning of Year	234,718.55	240,826.39	169,606.68	200,306.39
Cash Balances at End of Year	237,508.61	234,718.55	240,826.39	169,606.68
Reserved for Unpaid Obligations	(11,729.39)	(19,100.00)	(16,370.00)	(17,070.00)
Unreserved Cash Balances at End of Year	\$ 225,779.22	\$ 215,618.55	\$ 224,456.39	\$ 152,536.68
(*) Deposits on hand at the end of 2006-07 were not made until the beginning of 2007-08				

Operating Receipts vs. Operating Disbursements (Chart)*



QUESTIONNAIRES

Board Member Questionnaire

Surveys were sent to all seven (7) members of the Board of Funeral Service. Five (5) responded. The percentages shown are based on the number who responded to the individual question.

1. What are the most significant issues currently facing the Alabama Board of Funeral Service and how is the board addressing these issues?

Respondent 1: – “Outdated laws bind the agency.”

Respondent 2: – “The chief administrator doesn’t keep the board up to date on a regular basis of what is going on. The board is requesting a quarterly report from him.”

Respondent 3: – “I feel that training of the board is an issue that should be addressed. We are not explained anything prior to the first meeting. You learn on the job and sometimes this can be an experience that leads you to make the wrong decision because of ignorance of what you are doing.”

Respondent 4: – “Unlicensed personnel! No current action has been taken that I am aware of but I would like to see sting or field operations. We can go to churches or cemeteries and check for license.”

Respondent 5: – “Lack of power in funeral service law; new bill to be introduced.”

2. What changes to the board’s laws are needed?

Respondent 1: – “There are several.”

Respondent 2: – “The need for continuing education.”

Respondent 3: – “To be able to give stiffer penalties to deliberate and repeat offenders.”

Respondent 5: – “See new funeral bill.”

3. Is the board adequately funded?

Yes	1	20%
No	4	80%

Respondent 3: – “I say this because there have been some meetings that I have attended and not paid for. We are not paid for meetings on a regular basis.”

4. Does the board receive regular reports on operations from the chief administrative officer?

Yes	3	60%
No Opinion	2	40%

Respondent 3: – “We receive a report once a quarter at our regular meeting.”

Board Member Questionnaire

5. Is the board adequately staffed?

Yes	3	60%
No	2	40%

Respondent 1: – “Could use 1 additional inspector to allow Executive Director more time to run the office.”

6. Has the board experienced any significant changes to its operations?

Yes	4	80%
No	1	20%

Respondent 1: – “New hire, technology upgrades and if new law passes it will affect how we operate.”

Respondent 4: – “New computer program and licensure program.”

7. Does the board plan any significant changes in its operations?

Yes	1	20%
No	1	20%
Unknown	1	20%
No Opinion	2	40%

Respondent 1: – “I’m newly appointed to the board, awaiting result from new bill.”

Respondent 3: – “Not that I am aware of.”

Funeral Establishment Questionnaire

Surveys were sent to 100 licensees, of whom 54 responded. The percentages shown are based on the number who responded to the question.

1. Do you think regulation of your profession by the Board of Funeral Service is necessary to protect public welfare?

Yes	45	83%
No	8	15%
No Opinion	1	2%

Respondent 7: – “If we do not have this board, you would see anyone without licensing and training offer services to the public that would degrade our profession.”

2. Do you think any of the board’s laws, rules, and policies are an unnecessary restriction on the practice of your profession?

Yes	10	18%
No	42	78%
No Opinion	2	4%

Respondent 1: – “Some could be improved.”

Respondent 2: – “They do not restrict the practice of our profession, because, rarely are the laws, rules, and policies enforced. Only a chosen few have been made an example of while there are many more who deliberately break the law on a regular basis.”

Respondent 7: – “We need laws, rules, and policies to keep us from having uneducated people doing what I have done since 1969 and I do what I do well and abide by these.”

Respondent 24: – “The requirement to pass a test is unnecessary for persons with ten years.”

3. Do you think any of the board’s requirements are irrelevant to the competent practice of your profession?

Yes	10	18%
No	41	76%
No Opinion	2	4%
Did not Respond	1	2%

Respondent 2: – “They are all irrelevant to someone who has been “competently trained” and is working for the good of the consumer.”

Respondent 7: – “If you want to see incompetent, just do away with our board. It would be like a court with no judge or lawyers!”

Funeral Establishment Questionnaire

4. Are you adequately informed by the board of changes to and interpretations of board positions, policies, rules, and laws?

Yes	42	78%
No	10	18%
Unknown	1	2%
No opinion	1	2%

5. Has the board performed your licensing and renewal in a timely manner?

Yes	51	94%
No	2	4%
No opinion	1	2%

Respondent 7: – “Never had to wait on them for any answers, always been prompt.”

6. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the board doing to address the issue(s)?

Respondent 1: – “I think their test for funeral directors is designed for school grads and it should be considered they are failing more than they pass.”

Respondent 2: – “The state of Alabama faces a severe shortage of licensed embalmers. Everyone has fought grandfathering because they feel it will reduce the salaries of licensed embalmers; however, all over this state there are COMPETENT, unlicensed embalmers doing the job. [REDACTED] will deny this claim, but this is true.”

Respondent 3: – “We have firms that are operating without proper licenses and they are not being policed.”

Respondent 5: – “Lobby more for independent business owners and pre-need laws.”

Respondent 6: – “Cost increases; nothing.”

Respondent 7: – “My main concern is you all as a sunset committee wanting to do away with our board. I think you all would want to have a governing board to oversee what we as owners/operators are doing and make sure we are abiding by the law! In any profession there are some “bad apples” but our board diligently works at seeking these types of individuals and bringing their wrong doings to the board. Please leave our board alone and help us to remain proud to be a professional in the funeral profession.”

Respondent 9: – “Numerous rules are violated and the board does nothing to police or stop it from occurring again.” They have a problem with raising fees so there could be more funds to police practices of the profession. The board does not favor continuing education!!! Continuing education with strict guidelines and fees could eliminate the wrongdoers.”

Respondent 11: – “Stiffer penalties for those that do not follow the law – revamped funeral law.”

Respondent 12: – “Vaults being sold and installed at the time of purchase; not at the time of death. Do like GA., stop this practice now; this is the board’s job, to look out for AL funeral homes.”

Funeral Establishment Questionnaire

Respondent 13: – “Pre-need rules, unfair practices by some funeral homes. Don’t know what the board is doing.”

Respondent 14: – “1: We have solicitation going on everywhere. Funeral home staff posing as Chaplain in order to get in, then solicit the bodies of decease. 2: Other funeral homes showing up at the home of decease to convince families to change their mind concerning the carrier. 3: Holding the dead human remain for ransom.”

Respondent 15: – “Charging too much for pre-need audits. The interest we make when added up is returned to them in an audit, so no money is made for us to keep up with inflation. Nothing has been done.”

Respondent 17: – “Cemeteries need to be under a board.”

Respondent 18: – “Feel they should be working to regulate cemeteries. They are a funeral related business.”

Respondent 21: – “The audits of the pre-need trust accounts are too expensive. I don’t know anything the Board of Funeral Service is doing. My last audit cost \$1600 and the auditors did not find any problems.”

Respondent 22: – “We need to strengthen the laws to give the board more authority to punish violators.”

Respondent 24: – “The board is requiring local individuals to pass a test based on a national norm and the questions are totally irrelevant to local customs and practices.”

Respondent 26: – “Continuing education should be a requirement in the State of Alabama for licensed funeral directors and embalmers.”

Respondent 28: – “To make sure that all persons are funeral service licensees.”

Respondent 29: – “Education – the board does nothing.”

Respondent 30: – “1: Funeral homes not paying for transfer/removal fee. 2: Funeral home solicitations of deceased remains. 3: Board examinations (Persons should be required to take exam as often as needed).”

Respondent 31: – “We need continuing education requirements; Enforcement of current policies, laws, and rules.”

Respondent 32: – “1: Lack of licensees to fill positions. 2: Non-enforcement of rules regarding non-licensed people arranging and conducting funerals and performing embalming.”

Respondent 34: – “Competitive pricing. I don’t know that there is an equality factor.”

Respondent 36: – “Unlicensed personnel working; need more inspection on funeral services to see if licensed director is present.”

Respondent 40: – “Give the board greater power to oversee and hand out heavier fines regarding the use of unlicensed individuals to perform embalming procedures. This practice places our profession in a bad light and diminishes the quality of services to the people of Alabama.”

Respondent 41: – “Cemetery owners and monument/vault providers should have to follow the same rules/regulations as funeral homes. We are often in competition with one another.”

Respondent 43: – “More enforcement of solicitation laws, unlicensed people funeral directing and embalming, unlicensed pre-need sales, protection for funeral homes undercut by competition being paid before body is transferred.”

Respondent 48: – “None that I am aware of.”

Funeral Establishment Questionnaire

Respondent 51: – “Some funeral homes are not professional in conducting business, because of politics. I think this should be corrected immediately.”

Respondent 52: – “No one is enforcing these rules on a daily basis. We need people to check on funerals and during arrangements to see that laws are being followed.”

Respondent 53: – “Enforcement of laws and regulations.”

Respondent 54: – “Currently the issue of untimely payments by insurance companies once all paperwork has been completed and submitted for payment. [REDACTED]

[REDACTED] are the slowest, usually requesting the same paperwork that has already been submitted correctly.”

Did Not Respond

21

7. Do you think the board and its staff are satisfactorily performing their duties?

Yes	41	76%
No	8	15%
Unknown	2	4%
No Opinion	3	5%

Respondent 2: – “Until the appointment of [REDACTED], not much was done as far as enforcement. Granted, they do not have the resources, financially, to inspect and enforce the law and everyone knows this so they do their own thing. It is a known fact, criminals will find ways to break or avoid the law, while those who are in the business to serve families in their time of need will continue to uphold the law, whether it is God given or man given.”

Respondent 7: – “I wished we could give the board in the budget more money for an additional staff person.”

Respondent 18: – “[REDACTED] is a joke!”

Respondent 32: – “They do not have the manpower or resources to enforce the laws and regulations.”

8. Has any member of the board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

No	53	98%
Unknown	1	2%

Respondent 2: – “The state of Colorado has no funeral service board and the profession seems to have the fewest crooks and persons trying to “avoid the law”. The funeral professionals all do their jobs and treat families with respect. They aren’t trying to get around the law or tattle on their competitors.”

Respondent 7: – “Absolutely not!”

Funeral Service Licensee Questionnaire

Surveys were sent to 150 licensees, of whom 69 responded. The percentages shown are based on the number who responded to the question.

1. Do you think regulation of your profession by the Board of Funeral Service is necessary to protect public welfare?

Yes	64	93%
No	2	3%
Unknown	1	1%
No Opinion	2	3%

Respondent 20: – “People are putting a lot of trust in the firm they call and they should have someone with a license taking care of their needs.”

Respondent 21: – “If it applies to everyone, equally.”

2. Do you think any of the board’s laws, rules, and policies are an unnecessary restriction on the practice of your profession?

Yes	8	11%
No	57	83%
Unknown	2	3%
No Opinion	2	3%

Respondent 1: – “Paying that \$600.00/year for dues.”

Respondent 2: – “When we opened in 2004, we could not put the owner’s name on the business because the owner did not have a mortician or funeral director’s license, but we had licensed people working for us. It is wrong to not allow the owner to put his name on the business in the beginning.”

Respondent 14: – “Need more restrictions and penalties.”

3. Do you think any of the board’s requirements are irrelevant to the competent practice of your profession?

Yes	9	13%
No	51	74%
Unknown	6	9%
No Opinion	2	3%
Did not Respond	1	1%

Respondent 12: – “No, I think requirements should be stricter.”

Respondent 63: – “There are too many funeral homes having services with no licensed funeral directors on site. This is so unfair to the ones who have tested and must renew licenses annually!!!”

Funeral Service Licensee Questionnaire

4. Are you adequately informed by the board of changes to and interpretations of board positions, policies, rules, and laws?

Yes	39	56%
No	22	32%
Unknown	4	6%
No opinion	4	6%

Respondent 20: – “With the technology of today the Board of Funeral Service should have everything posted on a web site.”

Respondent 56: – “Monthly newsletter; have called to office before and staff was uniformed on known shipper policy. More communication would be a great asset – updated website, email alerts, etc.”

5. Has the board performed your licensing and renewal in a timely manner?

Yes	66	96%
No	2	3%
No opinion	1	1%

Respondent 31 – “Yes, other than requesting renewal months in advance before due date.”

6. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the board doing to address the issue(s)?

Respondent 4: – “Some funeral homes play by the rules while others do not. This seems to be a conflict with who has a license to embalm or be a funeral director. Here in Selma, Ala. it seems to be an issue. If you find a way to increase the number of people with a license please work on the cost of Health Ins.”

Respondent 5: – “There needs to be a sampling of the test for the apprentice so that will have a better understanding as to the test they have to take to receive their license. There are specific topics but not how the test is presented. Where is the best study guide in preparation for the test?”

Respondent 6: – “Funeral home owner selling funeral, directing funeral without license. The attempt to grandfather untrained school person for license. We need CEU hours. What the board is doing about the above I don’t know.”

Respondent 11: – “Enforce the rules.”

Respondent 12: – “People working in our profession without a license. I think the board should make it more difficult to work without the proper license. I think you should be required to go to school to be a director, not just an embalmer.”

Respondent 14: – “Firmer pre-need laws! Don’t know what anyone is doing about it.”

Respondent 15: – “The lack of required CEUs. Nothing is being done about which I am aware.”

Funeral Service Licensee Questionnaire

Respondent 15: – “The inability of a lot of families to pay for funerals is becoming more prevalent and needs to be addressed by our legislators and other officials.”

Respondent 18: – “They should pass legislation to regulate funeral related businesses like cemeteries. Stricter on county coroners, carrying all the bodies to one funeral home. They should be more involved in funeral meetings.”

Respondent 19: – “Seems like things are being addressed. Good job.”

Respondent 20: – “Funeral providers allowing people that are not licensed to perform the work of a licensed person. I personally know of a funeral home that allows someone to embalm and they have admitted to me that they do it without a license. If heavy fines were in place it would stop this type of action.”

Respondent 21: – “Making every establishment follow all of the rules. There are people who intentionally break laws and have total disregard to any law at all. It is a shame and travesty some of us take the time, money, and pride to do things right, and some do not. No matter who is called nothing is done. This is discrimination, and the board and even governor’s office does nothing.”

Respondent 22: – “Accountability – no continued education post-licensure. All professions have some form.”

Respondent 23: – “Most significant = continuing education. At this point, very little is being done.”

Respondent 24: – “As a current apprentice, my most significant concern is schooling and the costs of tuition, books, travel to school, etc. Insofar as my experience, Jeff State in Birmingham has very excellent, professional, and helpful teachers.”

Respondent 25: – “Live and work in FL, haven’t worked in AL since 1956, just kept my license up.”

Respondent 26: – “The lack of embalmers.”

Respondent 27: – “I don’t know of any significant or major issues currently facing my profession in the state.”

Respondent 28: – “Safeguarding pre-need trust funds – unsure of how the board is addressing this issue at the current time.”

Respondent 29: – “More enforcement of requiring only licensed embalmers to perform embalming.”

Respondent 30: – “I think Alabama needs to have a continuing education program. It appears that the board is doing nothing on this matter.”

Respondent 31: – “One, I have requested and received a flat no. I have not worked in a funeral home in AL since 1954. I pay my renewal fee each year. I live in GA. I am 82 years of age, retired. I requested a reduced annual fee due to age and being retired. No was their answer. I have not lived in AL since 1958. I requested board action on my request. One lady in Monroeville, AL answered and said no. (Not the board.)”

Respondent 33: – “Recruiting more people into our profession. Apprentice time for funeral directors should be shortened. Time for embalmer should be no longer than 1½ years. [REDACTED] needs to get out to the funeral homes himself. Talk to the employees, not the management. This would improve communication. Inspectors are just not enough.”

Respondent 34: – “Double standard. Regulations for black and white FH should be enforced equally.”

Funeral Service Licensee Questionnaire

Respondent 36: – “Stop issuing any practical licenses. Require everyone obtaining a license as a funeral director or embalmer to attend and graduate from a certified school for such and approved by the Alabama Board of Funeral Service. This would be a giant step of making this profession a truly professional service.”

Respondent 38: – “Theft of goods and services between one funeral home to another and unpaid debts. Unprofessional conduct, the board is doing nothing at this time.”

Respondent 39: – “Unlicensed personnel and board needs more power to fine and suspend businesses not following rules.”

Respondent 41: – “Pop up crematories and the relationship of the Funeral Service Board and the AL Department of Insurance.”

Respondent 42: – “The board plays a vital role in helping to keep funeral homes honest and a neutral party for grievances among the industry. New legislation will improve the board’s ability to do the things that will only strengthen the industry.”

Respondent 43: – “First of all, I’ll say this response should not affect [REDACTED] as he recently joined the board and could not have caused these problems. The issues I have with the board is 1) their inability to enforce laws and protect the public from fraud within funeral homes in Alabama and 2) the lack of rules and concern governing establishments being operated by non-licensed persons and the negative effects it has on the public.

Currently, there are several funeral homes in Birmingham where non licensed individuals are conducting the duties of licensed funeral directors and embalmers. The board’s policies are no more than a slap on the wrist and encourage these owners to just pay the fine and continue to operate as usual without regard for the damage done to the public. In addition, the board does not have enough staffing to properly enforce the laws when it comes down to protecting the public; just imagine two people to police the entire State of Alabama. We treating this as govern yourself on the honor system; just call us when you need something.

The board needs to pass a law requiring only licensed individuals to open, operate AND own a funeral establishment; this is the most embarrassing issue that comes to mind. Furthermore, only formally trained individuals should be allowed from this day forward to operate funeral homes and be required to only employ licensed employees. This industry is viewed as a joke requiring licensed personnel to qualify a funeral home and allowing anyone to own and operate the firm. I state ‘allowing anyone to own and operate the firm’ as random inspections don’t occur enough to catch violation; and we know it. In most cases the qualifying person does not work in the funeral home full time; thus allowing the un-licensed owner to perform the daily duties which include waiting on families and preparation of deceased humans. This is the leading scenario which leads to fraud. Does the state allow doctor or lawyer office to practice in this manner then why allow the funeral homes to do this, simply embarrassing.

I’ve said enough and hope my words don’t fall on deaf ears. I’ve given up hope and regret going into this business. It’s corrupt and damaged beyond repair and I fault the State of Alabama Department of Funeral Service for doing nothing. It’s sad when a licensed person can’t make a living in this business by operating the correct way but the corrupt ones strive. If you have any questions or concerns, please call my office.”

Respondent 44: – “This idea that the funeral law should be sunset. It would be a slap in the face to the funeral service profession. Too many directors would abuse their client’s

Funeral Service Licensee Questionnaire

family in their finances, by upping the price to acquire all their insurance proceeds, which could be used or should be used for other expenses. Leave the funeral law alone.”

Respondent 45: – “They only come around once a year to inspect and collect fees. They care more for the fees than inspection.”

Respondent 48: – “I think the pre-need laws are an issue and I am unaware of what the board is doing to address this issue. I also feel that AL must require graduation from a mortuary science college and continuing education requirements.”

Respondent 49: – “The lack thereof of continuing education. Alabama needs at least a minimal number of hours. The board is doing nothing because it is not their place.”

Respondent 51: – “Give the board greater power to oversee and hand out heavier fines regarding the use of unlicensed individuals to perform embalming procedures. This practice places our profession in a bad light and diminishes the quality of services.”

Respondent 52: – “There is a need for education and enhancement of laws to ensure that qualified people actually service the professional needs of the public. This is done through a number of ways but as all other states around require continuing education to renew licenses.”

Respondent 54: – “No issues.”

Respondent 55: – “Grandfathering of uneducated funeral home personnel and continuing education for licensed professionals. The board has always (current) endorsed formal education for funeral home professionals, i.e. directors and embalmers.

Respondent 57: – “We need continuing education and better enforcement of the existing laws; too many non-licensed people doing funerals.”

Respondent 62: – “I practice my profession in FL although I believe that this board is needed to monitor the activities of funeral service practitioners in this state. To protect the consumer as he or she tends to the business of burying their dead so they can know that the firm and directors on which they call are licensed according with this state’s rules and laws.”

Respondent 64: – “Grandfathering. I think to keep the class of the funeral ind. to the place it is we need to keep strict supervision in all areas.”

Respondent 67: – “I think you should not do away with board. That is the largest issue.”

Respondent 68: – “Pre-need issue, laws should be enforced. Coroner should be changed to a board certified medical examiner rather than a popularity contest with questionable connections with the funeral industry. (Fox in the hen house?)”

Did Not Respond

26

7. Do you think the board and its staff are satisfactorily performing their duties?

Yes	47	69%
No	7	10%
Unknown	11	16%
No Opinion	3	4%
Did not Respond	1	1%

Respondent 13: – “Staff slow on renewals are a problem. Not returning renewal license quick enough.”

Funeral Service Licensee Questionnaire

Respondent 18: – “██████████ is nothing but a drunk and has no idea what goes in the office. ██████████ always run the office when he was there and now ██████████ is running the office. If ██████████ was gone the office would be a lot better.”

Respondent 20: – “What is required of them.”

Respondent 31: – “Don’t know; never hear from them other than at renewal time.”

Respondent 55: – “Staff has always been courteous and efficient.”

Respondent 57: – “I think they do the best they can with their budget.”

8. Has any member of the board or its staff asked for money (other than normal fees), services, or any other thing of value in return for performing a board service for you?

No	67	98%
Unknown	1	1%
Did not Respond	1	1%

Respondent 13: – “The staff has attitude, need to improve customer relations.”

Respondent 15: – “I think a change in the Executive Secretary position should be implemented. ██████████ has been in this position so long that he has rendered the board as a whole ineffective. I am a former board member and am now more aware of how we were manipulated by ██████████. We, as a board, should have been more forceful in letting him know he works for the board not the other way around! Thank you for your attention to this matter. This board is very necessary to protect both the public and profession.”

Respondent 21: – “Overall we need one board to answer to, not the insurance commission who has no idea about the funeral profession, or a funeral board who plays favorites. Just thinking of this makes me angry, not that you really care.”

Complainant Questionnaire

Surveys were sent to 6 complainants of whom 3 responded. The percentages shown are based on the number who responded to the question.

1. How was your complaint filed with the Alabama Board of Funeral Service?

Regular Mail	2	67%
Phone	1	33%

2. Was receipt of your complaint promptly acknowledged?

Yes	1	33%
No	1	33%
Did not respond	1	33%

Respondent 1 – “I had to call twice in reference to receipt of complaint.”

3. If your answer to Question 2 was “YES”, how long after you filed your complaint were you contacted by the board?

Immediately	1	100%
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4. Was the person who responded to your complaint knowledgeable and courteous?

Courteous	2	67%
Both	1	33%

5. Did the board communicate the results of investigating your complaint to you?

Yes	3	100%
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Respondent 1 – “After I called I received a return certified receipt on 1-20-11. My dates after this are not completely accurate. Approximately two weeks later I called to see why I had not heard or received a response. Once I called [REDACTED] told me as far as he was concerned the funeral home had settled with me. Because I accepted payment, not knowing there was another check, even the claim itself. [REDACTED] stated that my sister say I was there at the planning of the burial. Two weeks approximately I received a letter closing the case. In my response I sent another check that I had requested from the insurance company since he said the one check was proof [REDACTED] had settled with me and there was nothing more he could do.”

Complainant Questionnaire

6. Do you think the board did everything it could to resolve your complaint?

Yes	1	33%
No	2	67%

7. Were you satisfied with your dealings with the board?

Yes	1	33%
No	2	67%

Respondent 1 – “June of 2009, my brother had car accident that killed him. My nephew chose [REDACTED] funeral home again. I helped him planned the funeral. We requested and paid for 2 family cars. The day of the funeral one car shows up. [REDACTED] called [REDACTED], he states that he has another funeral and only one car would be available. My nephew did tell me [REDACTED] reimbursed him. [REDACTED] also brought a family tray of sandwiches by after the funeral. At this time I was unaware of the fraud and forgery that had taken place. 2003 of June my Mom died. I found out about the forgery and checks coming back to the funeral home in 2010. I was in [REDACTED] office. He had the speaker phone on. That’s the reason I made the inquiry into the rest of the policies. I was on the death certificate as the informant.”

Respondent 2 – “When I mailed the letter it was received on a Friday. I called on Monday and talked to [REDACTED]. Several days later I received a letter from him, copy enclosed. The woman was not my brother’s niece. She did call [REDACTED] and asked for a paid in full statement. I offered [REDACTED] a copy of the cancelled check that my sister wrote to the funeral home. The niece [REDACTED] is not capable of making any decision she said she signed a insurance paper is all. [REDACTED] had said that no one would do anything about it. All we are asking for is item to item and paid in full. I am sure if you would go back over the last 11/2 they quoted a price and more on the family.”

Respondent 3 – “The Board of Funeral Service accomplished what we were unable to on our own. They also did follow-up and gave our family piece of mind.”

APPENDICES

SMART Performance Report

Thursday, January 13, 2011
EBO Form 10

FY 10 SMART Quarterly Performance Report

Page 2 of 3

Basic Agency

Agency: 316 - Funeral Service, Alabama Board of				Program: 653 - PRO AND OCCU LICENSING AND REG							
Organization: -				Activity: -							
Key Goal:											
Goal 1	To list a 100% of all licenses through a online directory by FY2012.								Governor's Priority:	4	
Objectives and Quarterly Targets:											
Performance Measures		First Quarter		Second Quarter		Third Quarter		Fourth Quarter		Annual	
Objectives	Unit of Measure	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(O1-Quality) Percentage of licenses listed on website	Percentage of licenses	--	--	--	--	--	--	--	--	100%	0%
(O2-Efficiency) Maintain current cost of licenses	Cost per licenses	--	--	--	--	--	--	--	--	\$108.00	\$56.27

ACT No. 2011 - 623

1 SB94
2 127666-3
3 By Senators Keahey and Ward
4 RFD: Judiciary
5 First Read: 01-MAR-11



SB94

ENROLLED, An Act,

Relating to the Alabama Board of Funeral Service; to amend Sections 34-13-1, 34-13-7, 34-13-9, 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56, 34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94, 34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116, 34-13-120, and 34-13-130, Code of Alabama 1975, to define mortuary service and provide further for the contents and square footage of a funeral establishment and mortuary service; to increase the maximum fine for funeral directing or operating a funeral establishment without a license; to require all funeral service, cemetery service, and funeral merchandise pricing to conform to Federal Trade Commission rules; to specify who may enter into a preneed contract; to revise the law relating authorizing an agent for the purpose of directing the disposition of remains and arranging for funeral services; to further limit the liability of a funeral director who relies upon an authorized agent; to provide further for diversity in the membership of the board; to authorize the board to delegate administration of license examinations; to increase the number of days per year board members may receive per diem

1 from 10 to 20; to provide for the filing of a complaint
2 against a licensee and provide procedures for conducting
3 hearings; to require an applicant for licensure as a funeral
4 director to have graduated from an approved embalming school
5 or college; to increase the reciprocal license fees; to
6 provide for a temporary special work permit; to require the
7 public display of certificates of licensure; to increase
8 annual license renewal fees and reinstatement fees for funeral
9 directors, embalmers, and operators; to include failure to
10 cooperate with the board as a ground for punishment of a
11 licensee and to increase fines for violations; to increase the
12 application fee and examination fees for funeral directors; to
13 specify subjects and passing grade for the funeral directors
14 examination; to increase the fee for a special operating
15 permit; to increase the application fee and examination fee
16 for licensure as an embalmer; to specify the passing grade for
17 the embalmer's license examination; to increase the funeral
18 establishment license inspection fee, reinspection fee, annual
19 inspection fee, location transfer fee, and new branch or
20 location fee; to increase the application fee for a license to
21 operate a funeral establishment and provide further for the
22 contents of a funeral establishment; to require the submission
23 of an application, payment of an application fee, and an
24 inspection prior to operating a mortuary service; to increase
25 the fee and charge a fee for changing the name of a funeral

1 establishment or mortuary service; to authorize the board to
2 revoke, suspend, or refuse to renew the license of a mortuary
3 service; to increase the fine imposed upon any person, firm,
4 partnership, society, group, or corporation failing to
5 register a funeral home, mortuary, chapel, funeral
6 establishment, or mortuary service; to prohibit any crematory
7 facility from cremating deceased animals; to delete certain
8 antiquated language pertaining to an apprentice certificate or
9 license; to repeal Section 34-13-28, Code of Alabama 1975,
10 providing for the reporting of receipts and disbursements of
11 the board to the Governor and the Legislature; and to repeal
12 Article 4, consisting of Sections 34-13-150, 34-13-151, and
13 34-13-152, of Chapter 13, Title 34, Code of Alabama 1975,
14 relating to donor eye enucleation licenses; and to specify an
15 effective date.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 34-13-1, 34-13-7, 34-13-9,
18 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26,
19 34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56,
20 34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94,
21 34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116,
22 34-13-120, and 34-13-130 of the Code of Alabama 1975, are
23 amended to read as follows:

24 "§34-13-1.

1 "(a) For purposes of this chapter, the following
2 terms shall have the following meanings:

3 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
4 SCIENCE. A school or college approved by the Alabama Board of
5 Funeral Service and which maintains a course of instruction of
6 not less than 48 calendar weeks or four academic quarters or
7 college terms and which gives a course of instruction in the
8 fundamental subjects including, but not limited to, the
9 following:

10 "a. Mortuary management and administration.

11 "b. Legal medicine and toxicology as it pertains to
12 funeral directing.

13 "c. Public health, hygiene, and sanitary science.

14 "d. Mortuary science, to include embalming
15 technique, in all its aspects; chemistry of embalming, color
16 harmony; discoloration, its causes, effects, and treatment;
17 treatment of special cases; restorative art; funeral
18 management; and professional ethics.

19 "e. Anatomy and physiology.

20 "f. Chemistry, organic and inorganic.

21 "g. Pathology.

22 "h. Bacteriology.

23 "i. Sanitation and hygiene.

24 "j. Public health regulations.

"k. Other courses of instruction in fundamental subjects as may be prescribed by the Alabama Board of Funeral Service.

"(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION. That funeral service educational organization which is an agency granted official recognition by the United States Secretary of Education and which is composed of members representing the American Association of College of Mortuary Science, the Conference of Funeral Service Examining Board of the United States, Inc., the National Association of Colleges of Mortuary Science, and the University Mortuary Science Education Association and which has as its object the furtherance of education in the field of funeral service and in fields necessary to, or allied with, the field of funeral service, and further to formulate standards of funeral service education and to grant accreditation to qualified schools and colleges of mortuary science and to do all things incidental to the foregoing.

"(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE. Any person engaged in the study of the art of embalming under the instructions and supervision of a licensed embalmer practicing in this state.

"(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL DIRECTOR'S APPRENTICE. Any person operating under or in association with a funeral director for the purpose of

1 learning the business or profession of funeral director, to
2 the end that he or she may become licensed under this chapter.

3 "(5) AUTHORIZING AGENT. A person at least 18 years
4 of age, except in the case of a surviving spouse or parent,
5 who is legally entitled to order the cremation or final
6 disposition of particular human remains.

7 "(6) BOARD. The Alabama Board of Funeral Service.

8 "(7) CEMETERY. A place dedicated to and used or
9 intended to be used for the permanent interment of human
10 remains. It may be either land or earth interment; a mausoleum
11 for vault or crypt entombment; a structure or place used or
12 intended to be used for the interment of cremated remains;
13 cryogenic storage; or any combination of one or more thereof.

14 "(8) CEMETERY AUTHORITY. Any individual, person,
15 firm, profit or nonprofit corporation, trustee, partnership,
16 society, religious society, church, association or
17 denomination, municipality, or other group or entity, however
18 organized, insofar as they or any of them may now or hereafter
19 establish, own, operate, lease, control, or manage one or more
20 cemeteries, burial parks, mausoleums, columbariums, or any
21 combination or variation thereof, or hold lands or structures
22 for burial grounds or burial purposes in this state and engage
23 in the operation of a cemetery, including any one or more of
24 the following: The care and maintenance of a cemetery; the
25 interment, entombment, and memorialization of the human dead

1 in a cemetery; the sale, installation, care, maintenance, or
2 any combination thereof, with respect of monuments, markers,
3 foundations, memorials, burial vaults, urns, crypts,
4 mausoleums, columbariums, flower vases, floral arrangements,
5 and other cemetery accessories, for installation or use within
6 a cemetery; and the supervision and conduct of funeral and
7 burial services within the bounds of the cemetery. It is the
8 legislative intent of this chapter that a cemetery authority,
9 to the extent that it engages in any of the activities
10 described in this subdivision, shall not be affected by this
11 chapter and shall not be deemed to have entered into or
12 engaged in the practice of funeral directing, embalming, or
13 funeral establishment operation.

14 "(9) CREMATION. The technical process, using heat
15 and flame, that reduces human remains to bone fragments. The
16 reduction takes place through heat and evaporation. Cremation
17 shall include the processing, and may include the
18 pulverization, of the bone fragments.

19 "(10) CREMATIONIST. A person who performs the
20 procedure of cremation.

21 "(11) CREMATORY. A building or portion of a building
22 that houses a retort and that may house a holding facility for
23 purposes of cremation and as part of a funeral establishment.

24 "(12) EMBALMER. Any person engaged or holding
25 himself or herself out as engaged in the business, practice,

1 science, or profession of embalming, whether on his or her own
2 behalf or in the employ of a registered and licensed funeral
3 director.

4 "(13) EMBALMING. The practice, science, or
5 profession, as commonly practiced, of preserving,
6 disinfecting, and preparing by application of chemicals or
7 other effectual methods, human dead for burial, cremation, or
8 transportation.

9 "(14) FUNERAL. A ceremony for celebrating,
10 sanctifying, or remembering the life of a person who has died.
11 A funeral may be divided into the following two parts:

12 "a. The funeral service, which may take place at a
13 funeral home, church, or other place.

14 "b. The disposition, which may take place by the
15 grave, tomb, mausoleum, or crematory where the body of the
16 decedent is to be buried or cremated.

17 "(15) FUNERAL DIRECTING. The practice of directing
18 or supervising funerals, the practice of preparing dead human
19 bodies for burial by means other than embalming, or the
20 preparation for the disposition of dead human bodies; the
21 making of arrangements or providing for funeral services or
22 the making of financial arrangements for the rendering of
23 these services or the sale of this merchandise or supplies;
24 the provision or maintenance of a place for the preparation
25 for disposition of dead human bodies; or the use of the terms

1 funeral director, undertaker, mortician, funeral parlor, or
2 any other term from which can be implied the practice of
3 funeral directing; or the holding out to the public that one
4 is a funeral director or engaged in a practice described in
5 this subdivision.

6 "(16) FUNERAL DIRECTOR. A person required to be
7 licensed to practice the profession of funeral directing under
8 the laws of this state, who meets the public, who plans
9 details of funeral services with members of the family and
10 minister or any other person responsible for such planning, or
11 who directs, is in charge, or apparent charge of, and
12 supervises funeral service in a funeral home, church, or other
13 place; who enters into the making, negotiation, or completion
14 of financial arrangements for funerals, including, but not
15 limited to, the sale and selection of funeral supplies, or who
16 uses in connection with the profession of funeral directing
17 the terms funeral director, undertaker, funeral counselor,
18 mortician, or any other term or picture or combination thereof
19 when considered in context in which used, from which can be
20 implied the practicing of the profession of funeral directing
21 or that the person using such term or picture can be implied
22 to be holding himself or herself out to the public as being
23 engaged in the profession of funeral directing; and for all
24 purposes under Alabama law, a funeral director is considered a

professional. For the purposes of this chapter, the term does not include any cemetery authority.

"(17) FUNERAL ESTABLISHMENTS. The term includes any funeral home or mortuary service located at a specific street address where the profession of funeral directing, embalming, or cremation is practiced in the care, planning, and preparation for burial or cremation or transportation of human dead. The term does not include any cemetery or land or structure owned, operated, leased, controlled, or managed by any cemetery authority as a cemetery. A funeral establishment shall consist of and maintain all of the following facilities:

"a. A preparation room equipped with sanitary nonporous floor and walls, necessary drainage and ventilation, and containing operating embalming equipment, necessary approved tables, instruments, hot and cold running water, containers or receptacles for soiled linen or clothing, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.

"b. A display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images. At no time shall less than eight different adult size caskets be on the premises.

"c. At least one operating funeral coach or hearse properly licensed and equipped for transporting human remains in a casket or urn.

1 "d. If engaged in the practice of cremation, at
2 least one operable retort for cremation and an adequate supply
3 of urns for display and sale.

4 "e. A room suitable for public viewing or other
5 funeral services that is able to accommodate a minimum of 100
6 people.

7 "f. An office for holding arrangement conferences
8 with relatives or authorizing agents.

9 "(18) FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
10 Caskets made of any material for use in the burial or
11 transportation of human dead; outer receptacles, when sold by
12 a funeral director, including burial vaults and urns, for
13 cremated human remains; clothing used to dress human dead when
14 sold by a funeral director; and all equipment and
15 accouterments normally required for the preparation for burial
16 or funeral and other disposition of human dead.

17 "(19) MANAGING EMBALMER. A licensed embalmer who has
18 full charge, control, and supervision of all activities
19 involving the preparation room and embalming.

20 "(20) MANAGING FUNERAL DIRECTOR. A licensed funeral
21 director who has full charge, control, and supervision of all
22 activities involving funeral directing at a funeral
23 establishment.

24 "(21) MORTUARY SCIENCE. The scientific,
25 professional, and practical aspects, with due consideration

1 given to accepted practices, covering the care, preparation
2 for burial, or transportation of dead human bodies, which
3 shall include the preservation and sanitation of the bodies
4 and restorative art and those aspects related to public
5 health, jurisprudence, and good business administration.

6 "(22) MORTUARY SERVICE. A location with a specific
7 street address where embalming or cremation, or both, is
8 practiced for a licensed funeral establishment and where no
9 services or merchandise are sold directly or at retail to the
10 public. A mortuary service shall consist of and maintain all
11 of the following facilities:

12 "a. A preparation room equipped with sanitary
13 nonporous floor and walls, operating embalming equipment, and
14 necessary drainage and ventilation and containing necessary
15 approved tables, instruments, hot and cold running water,
16 containers or receptacles for soiled linen or clothing, and
17 supplies for the preparation and embalming of dead human
18 bodies for burial, cremation, and transportation.

19 "b. At least one operating motor vehicle properly
20 licensed and equipped for transporting human remains in a
21 casket or urn.

22 "c. If engaged in the practice of cremation, at
23 least one operable retort for cremation.

"(23) OPERATOR. A person, corporation, firm, legal representative, or other organization owning or operating a funeral establishment.

"(24) PRACTICAL EMBALMERS. Any person who has been actively and continuously engaged or employed in the practice of embalming under the supervision of a licensed embalmer for four consecutive years immediately preceding May 1, 1975, and has been issued a license as a practical embalmer under the grandfather provisions of this chapter.

"(25) PROCESSING or PULVERIZATION. The reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments or granulated particles by manual or mechanical means.

"(26) RETORT. An enclosed space within which the cremation process takes place.

"(27) TEMPORARY CONTAINER. A receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered or buried.

"(28) URN. A receptacle designed to encase cremated remains.

"(b) Nothing in this chapter shall require a funeral director or funeral establishment to have or provide a chapel or to restrict the conduct of funeral services from a church or chapel.

"(c) Nothing contained in the definition of funeral directing, or in any other provision of this chapter, shall be applicable to or regulate or restrict cemetery authorities in the conduct of activities of a cemetery authority ; or be applicable to or regulate or restrict the carrying on by any cemetery authority of any activities, functions, practices, and services which may now or hereafter (1) constitute any part of the operation or management of a cemetery or of the property of a cemetery or (2) otherwise consist of the interment or entombment of the human dead or memorialization of the human dead in any manner within a cemetery property.

"§34-13-7.

"Any person who embezzles, abstracts, or willfully misapplies any of the moneys, funds, security, or credit of the board or who misuses any of the funds or fees so collected, by virtue of this chapter, and any person who, with like intent, aids or abets any person in violation of this chapter shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than five hundred dollars (\$500) nor exceeding five thousand dollars (\$5,000) and imprisonment in the penitentiary for a period of not less

1 than one year and not more than five years, and the principal
2 offenders and those aiding and abetting same may be charged in
3 the same count, and separate offenses may be charged, in
4 separate counts, in the same indictment and tried together.
5 Any person found guilty of offering or of accepting a bribe
6 whereupon any person is illegally licensed to practice
7 embalming, to practice funeral directing, or to operate a
8 funeral establishment in this state shall be punished by a
9 fine of not less than five hundred dollars (\$500) nor
10 exceeding ten thousand dollars (\$10,000) and may be imprisoned
11 in the penitentiary for a period of one to three years, and
12 the principal offenders and those aiding and abetting same may
13 be charged in the same count and separate offenses may be
14 charged in separate counts in the same indictment and tried
15 together.

16 "§34-13-9.

17 "Funeral service, cemetery service, and funeral
18 merchandise pricing shall conform to rules established by the
19 Federal Trade Commission.

20 "§34-13-11.

21 "(a) A person, who is at least 18 years of age and
22 of sound mind, may enter into a contract to act as authorizing
23 agent and direct the location, manner, and conditions of
24 disposition of remains and arrange for funeral goods and
25 services to be provided upon death. Except as otherwise

provided in subsection (b), the right to control the disposition of the remains of a deceased person as an authorizing agent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services to be provided, shall vest in the following persons in the priority listed and the order named, provided the person is at least 18 years of age and of sound mind:

"(1) The person designated by the decedent as authorized to direct disposition pursuant to Public Law No. 109-163, Section 564, as listed on the decedent's United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while serving on active duty in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard.

"(2)a. The person designated by the decedent in an affidavit executed in accordance with paragraph b.

"b. Any person, at least 18 years of age and of sound mind, may authorize another person to control the disposition of his or her remains pursuant to an affidavit executed before a notary public in substantially the following form:

""State of Alabama

"County of _____

"I, _____ designate _____ to control the disposition of my remains upon my death. I __ have

1 __ have not attached specific directions concerning the
2 disposition of my remains. If specific directions are
3 attached, the designee shall substantially comply with those
4 directions, provided the directions are lawful and there are
5 sufficient resources in my estate to carry out those
6 directions.

7 "Subscribed and sworn to before me this ____ day of
8 the month of ____ of the year ____.

9 "_____ (signature of notary public)"

10 "(3) The surviving spouse.

11 "(4) The sole surviving child of the decedent or, if
12 there is more than one surviving child, a majority of the
13 surviving children. Less than a majority of the surviving
14 children may be vested with the rights of this section if
15 reasonable efforts have been made to notify all surviving
16 children of the instructions and a majority of the surviving
17 children are not aware of any opposition to the instructions.

18 "(5) The surviving parent or parents of the
19 decedent. If one surviving parent is absent, the remaining
20 parent shall be vested with the rights and duties of this
21 section after reasonable efforts in locating the absent
22 surviving parent have been unsuccessful.

23 "(6) The surviving sibling of the decedent or, if
24 there is more than one surviving sibling, a majority of the
25 surviving siblings. Less than a majority of the surviving

siblings may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving siblings of the instructions and a majority of the surviving siblings are not aware of any opposition to the instructions.

"(7) The surviving grandparent of the decedent or, if there is more than one surviving grandparent, a majority of the surviving grandparents. Less than a majority of the surviving grandparents may be vested with the rights and duties of this section if reasonable efforts have been made to notify all surviving grandparents of the instructions and a majority of the surviving grandparents are not aware of any opposition to the instructions.

"(8) The guardian of the decedent at the time of the death of the decedent, if a guardian had been appointed.

"(9) The personal representative of the estate of the decedent.

"(10) The person in the classes of the next degree of kinship, in descending order, under the laws of descent and distribution to inherit the estate of the decedent. If there is more than one person of the same degree, any person of that degree may exercise the right of disposition.

"(11) The public officer, administrator, or employee responsible for arranging the final disposition of the remains of the decedent if the disposition of the remains is the

responsibility of the state or a political subdivision of the state.

"(12) Any other person willing to assume the responsibility of acting on and arranging the final disposition of the remains of the decedent, including the funeral director that has custody of the body, in the absence of any person specified in subdivisions (1) to (11), inclusive. The person shall attest in writing that good faith efforts to contact the persons specified in subdivisions (1) to (11), inclusive, have been unsuccessful.

"(b) The right of disposition shall be forfeited and passed to the next qualifying person listed in subsection (a), in any of the following circumstances:

"(1) The person is charged with first or second degree murder or voluntary manslaughter in connection with the death of the decedent and the charges are known by the mortician. If the charges against the person are dismissed or the person is acquitted of the charges, the right of disposition shall be reinstated.

"(2) The person does not exercise his or her right of disposition within two days after notification of the death of the decedent or within three days after the death of the decedent, whichever is earlier.

"(3) If the person is the spouse of the decedent and a petition to dissolve the marriage was pending at the time of death of the decedent.

"(4) If the judge of probate court determines, pursuant to subsection (c), that the person entitled to the right of disposition and the decedent were estranged at the time of death. For the purposes of this subdivision, estranged means a physical and emotional separation that has existed for such a period of time that an absence of affection, trust, and regard for the decedent is clearly demonstrated.

"(c) Notwithstanding subsections (a) and (b), the judge of probate of the county of residence of the decedent may award the right of disposition to the person the judge of probate determines to be the most fit and appropriate to manage the right of disposition, and may make decisions regarding the remains of the decedent if the persons possessing the right of disposition do not agree. If two or more persons who possess an equal right of disposition are not able by majority vote to agree upon the disposition of the remains of the decedent, any of those persons or the funeral establishment with custody of the remains may file a petition asking the judge of probate to make a determination in the matter. In making such a determination, the judge of probate shall consider all of the following:

1 "(1) The reasonableness and practicality of the
2 proposed funeral and disposition arrangements.

3 "(2) The degree of the personal relationship between
4 the decedent and each person possessing a right of
5 disposition.

6 "(3) The financial ability and willingness of each
7 person possessing a right of disposition to pay the cost of
8 the funeral and disposition arrangements.

9 "(4) The convenience and needs of other family
10 members and friends who wish to pay their respects and the
11 degree to which the funeral arrangements would allow maximum
12 participation by all who wish to pay their respects.

13 "(5) The desires of the decedent.

14 "(d) Absent negligence, wantonness, recklessness, or
15 deliberate misconduct in the event of a dispute regarding the
16 right of disposition, a funeral establishment may not be held
17 liable for refusing to accept remains, for interring, or for
18 otherwise disposing of the remains of a decedent or for
19 completing arrangements for the final disposition of remains
20 unless and until the funeral establishment receives an order
21 from the judge of probate, or other written agreement signed
22 by all persons possessing a right of disposition, regarding
23 the final disposition of the remains. If a funeral
24 establishment retains remains for final disposition during a
25 disagreement, the funeral establishment may embalm or

1 refrigerate and shelter the body, or both, to preserve the
2 body pending the final decision of the judge of probate. The
3 funeral establishment may add the cost of embalming or
4 refrigeration and sheltering, or both, to the final
5 disposition cost. If a funeral establishment files a petition
6 pursuant to subsection (c), the funeral establishment may add
7 any associated legal fees and court costs to the cost of final
8 disposition. This section may not be construed to require or
9 impose a duty upon a funeral establishment to bring an action
10 pursuant to this section. A funeral establishment and its
11 employees may not be held criminally or civilly liable for not
12 bringing an action pursuant to this section.

13 "(e) Except to the degree that it may be considered
14 by the judge of probate pursuant to subdivision (3) of
15 subsection (c), the fact that a person has paid or has agreed
16 to pay for all or a part of funeral and final disposition
17 arrangements does not give that person a greater voice in
18 right of disposition decisions than he or she would have had
19 otherwise. The personal representative of the estate of a
20 decedent, by virtue of being the personal representative, does
21 not have a greater voice in right of disposition decisions
22 than he or she would have had otherwise.

23 "§34-13-12.

24 "(a) Any person signing a funeral service agreement,
25 cremation authorization form, or any other authorization for

1 disposition by his or her signature shall attest to the
2 truthfulness of any facts set forth in the document including,
3 but not limited to, the identity of the decedent whose remains
4 are to be buried, cremated, or otherwise disposed of and the
5 authority of the person to order the disposition. A funeral
6 establishment may rely on a funeral service agreement,
7 contract, or authorization in carrying out the instructions of
8 the person the funeral establishment reasonably believes to
9 hold the right of disposition. A funeral establishment is not
10 responsible for contacting or independently investigating the
11 existence of any next-of-kin or relative of a decedent. If
12 there is more than one person in a class with equal priority
13 and the funeral establishment has no knowledge of any
14 objection by any other member of that class, the funeral
15 establishment may rely upon and act according to the
16 instructions of the first person in the class to make funeral
17 and disposition arrangements.

18 " (b) Absent negligence, wantonness, recklessness, or
19 deliberate misconduct, no funeral establishment or funeral
20 director who relies in good faith upon the instructions of a
21 person who claims a right of disposition shall be subject to
22 criminal or civil liability, or be subject to disciplinary
23 action, for carrying out the disposition of the remains in
24 accordance with those instructions.

25 "§34-13-20.

1 "(a) There is established the Alabama Board of
2 Funeral Service, consisting of seven members, each of whom
3 shall be citizens of the United States and of the State of
4 Alabama. All members of the former Alabama Embalming Board who
5 are holding office on September 10, 1975, by virtue of that
6 office, shall become members of the Alabama Board of Funeral
7 Service for the term ending December 31, 1976. Not more than
8 one member of the Alabama Board of Funeral Service may reside
9 in the same district as created under Section 34-13-21, and if
10 more than one member of the State Embalming Board resides in
11 one district at the time of the organization of the board, the
12 Governor shall select one member of the Embalming Board to be
13 a member of the original Alabama Board of Funeral Service from
14 the district, and the other member of the Embalming Board
15 shall not be eligible for membership on the board.

16 "(b) At a special meeting called for such purpose,
17 to be held in Montgomery, within 45 days from September 10,
18 1975, the Alabama Funeral Directors Association, Incorporated,
19 and the Alabama Funeral Directors and Morticians Association,
20 Incorporated, in joint meeting, shall nominate three qualified
21 persons for each of the positions as members of the original
22 board of the Alabama Board of Funeral Service which are not
23 filled by members of the State Embalming Board. The names of
24 such persons so nominated shall be promptly certified by the
25 secretary of the Alabama Funeral Directors Association,

1 Incorporated, and the Alabama Funeral Directors and Morticians
2 Association, Incorporated, to the Governor who shall appoint
3 the members of the board from among the persons so nominated.
4 Not more than four members of the board at any time may be
5 members of the same race and the membership of the board shall
6 be inclusive and reflect the racial, gender, geographic,
7 urban/rural, and economic diversity of the state. The board
8 shall annually report to the Legislature by the second
9 legislative day of each regular session the extent to which
10 the board has complied with the diversity provisions provided
11 for in this subsection. The board shall annually report to the
12 Legislature by the second legislative day of each regular
13 session the extent to which the board has complied with the
14 diversity provisions provided for in this subsection. Four
15 members shall be appointed for a term ending December 31,
16 1977, and the board shall be constituted so that the terms of
17 three members of the board shall end December 31, 1976, and
18 the terms of four members shall end December 31, 1977. The
19 terms of the members of the State Embalming Board, who become
20 members of the Alabama Board of Funeral Service under this
21 chapter, shall expire December 31, 1976, unless there are more
22 than three such members, in which event, the Governor shall
23 designate which of the three members of the State Embalming
24 Board shall serve for terms ending December 31, 1976, and
25 which shall serve for terms ending December 31, 1977.

1 "(c) After selection of the original members of the
2 Alabama Board of Funeral Service and during October of each
3 year, all embalmers and all funeral directors licensed under
4 this chapter shall meet in Montgomery, at a time and date in
5 October and at a place fixed by the board, for the purpose of
6 nominating three persons to the Governor for each vacancy on
7 the board. Not more than two nominees shall be members of the
8 same race. The Governor shall promptly appoint one of the
9 three persons so nominated.

10 "(d) The successors to the original members of the
11 board shall be selected for terms of two years. After the
12 terms of the original members of the board, four of the
13 members serving on the board shall be practicing and licensed
14 embalmers in Alabama for the last 10 consecutive years
15 immediately preceding their appointment and shall be licensed
16 embalmers and funeral directors in this state under this
17 chapter. Three of the members shall have been actively engaged
18 in funeral directing in Alabama for the last 10 consecutive
19 years preceding their appointment and shall be licensed
20 funeral directors of this state, under this chapter, and, at
21 the time of their appointment to the board, shall be operators
22 of funeral establishments in this state. If the license of a
23 member of the board as a funeral director or embalmer should
24 be revoked or suspended, such member shall automatically, by
25 reason of such revocation or suspension, become ineligible to

1 serve as a member of the board, and a new member, properly
2 qualified, shall be selected in the same manner provided for
3 appointment to the board. Should a member fail to qualify
4 after appointment, then he or she shall automatically become
5 ineligible to serve as a member of the board, and a new
6 member, properly qualified, shall be appointed and shall serve
7 the remainder of the term of the member so terminated. Each
8 member of the board shall remain an active practicing funeral
9 director or embalmer and funeral establishment operator during
10 his or her tenure of service on the board. Each member may
11 serve not more than four consecutive two-year terms. In no
12 event shall more than one member of the board reside in one
13 district. At each meeting where nominations are made for
14 members of the board, only one licensed funeral director or
15 licensed embalmer of each establishment shall have the right
16 to vote for nominees.

17 "(e) Any board member who is elected to the
18 International Conference of Funeral Service Examining Board,
19 upon his or her election, shall begin to serve the state board
20 in an ex officio capacity only, for the duration of his or her
21 international conference board term. A member, properly
22 qualified, shall be selected in the same manner provided for
23 appointment to the state board and shall serve the remainder
24 of the term of the member elected to the international
25 conference board.

"§34-13-22.

"The Alabama Board of Funeral Service shall hold not less than one meeting quarterly for the purpose of examining applicants for licenses, such meeting to be held at such time and place as the board may determine after notice of such meeting has been given in the manner prescribed herein at least 15 days prior to such meeting. The board shall not have power to delegate to any person who is not a member of the board the authority to conduct or administer an examination for a license. The board may hold such other meetings as it may deem necessary. Five or more members shall comprise a quorum. The board shall not meet on the premises of any embalming school or college of mortuary science; and, if any such meeting is held, all the proceedings of such meeting shall be void. If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required hereunder at the date and place of such quarterly meeting.

"§34-13-23.

"(a) (1) The board appointed under this chapter and each successor thereto is authorized to select from its own membership a chair and to adopt and promulgate such rules and regulations for the transaction of its business and for the betterment and promotion of the standards of service and practice to be followed in the funeral service profession in

1 the State of Alabama as it may deem expedient and consistent
2 with the laws of this state and for the public good.

3 "(2) The chair shall preside at all meetings of the
4 board unless otherwise ordered, and he shall exercise and
5 perform all duties and functions incident to the office of
6 chair.

7 "(3) The board may select also from its own
8 membership a vice chair, a secretary, and a treasurer. No two
9 offices shall be held by the same person. The chair and vice
10 chair may not be of the same race.

11 "(b) The treasurer shall give bond to the State of
12 Alabama in the sum of ten thousand dollars (\$10,000), and any
13 premium payable for the bond shall be paid from the funds of
14 the board. The bond shall be deposited with the Treasurer of
15 the State of Alabama.

16 "(c) Board members shall be reimbursed for their
17 necessary traveling expenses and the necessary expenses
18 incident to their attendance upon the business of the board,
19 and, in addition thereto, they shall receive the sum of fifty
20 dollars (\$50) per diem for every day not to exceed 20 days per
21 year actually spent by the member upon the business of the
22 board. The board may employ an executive secretary and
23 associate executive secretary who shall each receive and be
24 paid an annual salary to be fixed by the board, but not to
25 exceed the salary level established and paid to cabinet

1 officers in the state government. The salary shall be paid on
2 a monthly basis. In addition, the executive secretary and
3 associate executive secretary shall receive his or her
4 necessary traveling and other incidental expenses as are
5 incurred in the performance of duties, and all expenses, per
6 diem, and compensation shall be paid out of the receipts of
7 the board. At no time shall the operation of the board be an
8 expense to the state, and at no time shall expenses of the
9 board exceed the receipts of the board.

10 "(d) The executive secretary of the board shall have
11 complete supervision and be held responsible for the direction
12 of the office of the board, shall have supervision over field
13 inspection and enforcement of this chapter, and shall be
14 responsible and answerable to the board. The associate
15 executive secretary shall assist the executive secretary and
16 perform such other duties as may be assigned to him or her by
17 the board. The executive secretary and associate executive
18 secretary shall not be of the same race.

19 "(e) The executive secretary shall keep a record in
20 which shall be registered the name and business address of
21 every person to whom licenses have been granted in accordance
22 with this chapter, the number and date of the license and the
23 date of each renewal. Upon request to do so, the executive
24 secretary shall supply each person licensed for the practice
25 of embalming and funeral directing with a list of all persons

1 and establishments holding a license under this chapter, then
2 in force, giving the names of the persons, their business
3 addresses, and the numbers of their licenses.

4 "(f) It shall be the duty of the executive secretary
5 to prepare under the direction of the board and cause to be
6 printed all forms required by this chapter to be prescribed by
7 the board. All notices required to be mailed by this chapter
8 shall be directed to the last known post office address of the
9 party to whom the notice is sent.

10 "(g) The executive secretary shall serve at the
11 pleasure of the board and shall perform duties as may be
12 necessary for the proper functioning of the board as the board
13 may determine or as may be prescribed in this chapter. During
14 the employment of the executive secretary he or she may not be
15 employed by any funeral establishment.

16 "(h) All fees and fines received under this chapter
17 shall be paid into a special fund in the State Treasury to be
18 known as the Alabama State Funeral Directors and Embalmers
19 Fund, which is hereby created, for the necessary and proper
20 expenses of the board, and for a reasonable reserve for future
21 use by the board. All moneys in the fund are hereby
22 appropriated, as a continuing appropriation, to the Alabama
23 Board of Funeral Service to be used for carrying out this
24 chapter.

1 "(i) Each member of the board, the executive
2 secretary, the associate executive secretary, and designated
3 employees of the board appropriately identified are authorized
4 at any given time on complaint or for inspection purposes to
5 enter the office, premises, establishment, or place of
6 business of any funeral service licensee in the State of
7 Alabama or any office, premises, establishment, or place where
8 the practice of funeral service is carried on, or where the
9 practice is advertised as being carried on, for the purpose of
10 inspecting the office, premises, or establishment and for the
11 purpose of inspecting the license and registration of any
12 funeral service licensee and apprentice trainee operating
13 therein.

14 "(j) All members of the board or designated
15 employees of the board are hereby authorized to serve and
16 execute any process issued by any court under this chapter and
17 to serve and execute any papers or process issued by the board
18 or any officer or member thereof under authority of this
19 chapter.

20 "(k) The board may employ clerical assistants and
21 employees or other help as may be necessary to carry out this
22 chapter, and the terms and conditions of employment shall be
23 determined by the board. The board may establish and equip an
24 office from which this chapter may be carried out.

25 "§34-13-26.

1 "(a) The board has the power to adopt and enforce
2 for the protection of the public health, safety, and welfare
3 reasonable rules and regulations.

4 "(b) The rules and regulations of the board shall
5 not become effective until they have been published and
6 discussed at a public hearing and have been filed in the
7 office of the Secretary of State; and, when so filed, such
8 rules and regulations shall be in full force and have the
9 effect of law. The board shall mail notice of such hearing to
10 each licensee under this chapter 15 days before the date of
11 such hearing.

12 "(c) All rules and regulations adopted by the board
13 shall be referenced to the section or sections of this chapter
14 which set forth the legislative standard which it interprets
15 or to which it applies. Every rule and regulation shall be in
16 writing, promulgated by an order, state its effective date, be
17 indexed in a permanent book which shall be a permanent record,
18 and a true copy shall be filed in the office of the Secretary
19 of State of Alabama. A copy of every order promulgating a
20 rule, regulation, or other order containing a requirement of
21 general application shall be mailed to each licensee by first
22 class mail. The failure of a licensee to receive a copy of the
23 rule, regulation, or order shall not exempt or excuse him or
24 her from the duty of compliance with the valid rules,
25 regulations, or orders lawfully issued.

1 "(d) The board shall have power to hold hearings,
2 conduct investigations, subpoena witnesses, administer oaths,
3 and take testimony in order to carry out this chapter.

4 "(e) A court of competent jurisdiction, upon
5 application of the board, may restrain violations or refusals
6 to comply with this chapter or the regulations of the board.

7 "(f) Any person, including a member of the board,
8 may initiate a complaint against a licensee of the board by
9 filing with the board a written complaint on a form prescribed
10 by the board.

11 "(1) Upon receipt of a properly verified complaint,
12 the board shall send a copy of the complaint to the affected
13 licensee by certified mail to the address of such licensee
14 appearing on record with the board. The licensee shall answer
15 the complaint in writing within 20 days after receipt of the
16 complaint. The licensee shall mail a copy of his or her
17 response to the board and the complainant. Upon receipt of the
18 response of the licensee or lapse of 20 days, the board may
19 investigate a complaint that appears to show the existence of
20 any of the causes or grounds for disciplinary action pursuant
21 to this chapter. Upon finding reasonable cause to believe that
22 the charges are not frivolous, unfounded, or filed in bad
23 faith, the board may cause a hearing to be held, at a time and
24 place fixed by the board, regarding the charges. If a hearing
25 is held, the board shall order the licensee to appear and show

1 cause why he or she should not be disciplined for a violation
2 of this chapter.

3 "(2) The board shall give the complainant and the
4 affected licensee 20 days' notice of any hearing upon a
5 complaint. Such notice shall be by United States certified
6 mail.

7 "(3) Any party appearing before the board may be
8 accompanied by counsel.

9 "(4) Before commencing a hearing, the chair or a
10 designee of the board shall determine if all parties are
11 present and ready to proceed. If the complainant does not
12 attend a hearing and does not show good cause for his or her
13 absence, the complaint shall be summarily dismissed and all
14 fees and expenses relating to the convening of the hearing
15 shall be charged to the complainant. If an affected licensee
16 does not appear for a hearing and does not show good cause for
17 his or her absence, the licensee shall be presumed to have
18 waived his or her right to appear before the board and be
19 heard.

20 "(5) Upon a determination by the chair or designee
21 that all parties are ready to proceed, the hearing shall be
22 called to order. The complainant and the licensee may offer
23 opening statements and the board may order the sequestration
24 of nonparty witnesses.

"(6) After opening statements, the complainant shall present his or her case and the licensee, any counsel, and any member or designee of the board may ask questions of complainant witnesses.

"(7) After the complainant has completed presenting his or her case, the licensee shall present his or her case and the complainant, any counsel, and any member or designee of the board may ask questions of licensee witnesses.

"(8) After both sides have completed their presentations, closing statements may be given by the complainant and the licensee.

"(9) At the conclusion of the hearing, the board may render an immediate decision or take the case under advisement for further deliberation. A decision of the board shall be rendered within 90 days after the hearing and a copy of that decision shall be mailed to the last known business or residence address of the complainant and the licensee.

"(g) The board may file a formal complaint against a licensee and may temporarily suspend a license simultaneously with the institution of proceedings under this section, without a hearing, if the board finds that the evidence supporting the determination is clear, competent, and unequivocal and that the continuation of the licensee to practice would constitute a danger to public health or safety.

"§34-13-50.

1 "The Alabama Board of Funeral Service shall
2 recognize and approve and accept applicants for examination
3 from only those established embalming schools or colleges
4 which are recognized by the board. The board shall recognize
5 and approve any embalming school or college approved by the
6 American Board of Funeral Service Education, and any
7 additional embalming schools or colleges which offer courses
8 of study which generally include the subjects set out in
9 Section 34-13-94. The Alabama Board of Funeral Service shall
10 not examine or issue an embalmer's license to any person who
11 does not hold a certificate of graduation from an embalming
12 school or college meeting the criteria or standards as defined
13 in this section. The board may not examine or issue a funeral
14 director's license to any person who does not hold a
15 certificate of graduation from an embalming school or college
16 meeting the criteria or standards defined in this section.

17 "§34-13-51.

18 "(a) The board may, but shall not be required to,
19 recognize and issue, without examination and upon payment of a
20 fee not in excess of five hundred dollars (\$500) for each
21 license, a reciprocal license for the practice of funeral
22 directing or embalming to any person licensed as a funeral
23 director or embalmer by any state, if the board makes an
24 individual determination that the qualifications of the
25 applicant meet or exceed the minimum qualifications required

1 for funeral directors or embalmers in this state and that a
2 written examination of such applicant would be superfluous.

3 "(b) Applications shall be made on forms prescribed
4 and furnished by the board. An applicant holding a funeral
5 director or embalmer license from another state, and applying
6 for a funeral director or embalmer license in Alabama shall be
7 considered for licensing by reciprocity.

8 "(c) The board, at the time of the application,
9 shall make a reasonable determination that the applicant is a
10 legal resident of the United States or legally present in this
11 state. The board reserves the right to require applicants for
12 reciprocity to submit to a personal interview or a written
13 examination relating to the law as it pertains to the
14 regulation of the funeral service profession in Alabama.

15 "(d) The board shall issue a special work permit to
16 a qualified funeral director or embalmer when the board
17 determines that the applicant satisfies all requirements for
18 reciprocity and a fee, not exceeding one hundred dollars
19 (\$100), is received by the board. A special work permit shall
20 expire on the date of the next regular board meeting occurring
21 after issuance.

22 "§34-13-52.

23 "(a) Licenses under this chapter shall be granted to
24 individuals upon the qualification and successful examination
25 of the individual applicant and shall specify the name to whom

1 it is issued. A license granted under this chapter shall be on
2 public display.

3 "(b) A funeral establishment license issued under
4 this chapter shall include the name of the funeral
5 establishment, the name of the managing funeral director, the
6 name of the managing embalmer, and the certificate of
7 authority license number, if applicable. The license shall be
8 on public display.

9 "(c) Every license issued under this chapter shall
10 be signed by the chair and executive secretary and shall be
11 displayed in the place of business or employment of the
12 licensee.

13 "(d) Any person engaged in the business, profession,
14 or practice of funeral directing shall do each of the
15 following:

16 "(1) Posses on his or her person, or be able to
17 promptly produce, a legible and current Alabama funeral
18 director's wallet license certificate when performing the
19 duties of a funeral director.

20 "(2) Upon the request of a board member, the
21 executive secretary, the associate executive secretary, or a
22 designated and appropriately identified employee of the board,
23 promptly produce his or her legible and current Alabama
24 funeral director wallet license certificate.

1 "(e) Any person engaged in the business, profession,
2 or practice of embalming shall do each of the following:

3 "(1) Posses on his or her person, or be able to
4 promptly produce, a legible and current Alabama embalmer's
5 wallet license certificate when performing the duties of an
6 embalmer.

7 "(2) Upon the request of a board member, the
8 executive secretary, the associate executive secretary, or a
9 designated and appropriately identified employee of the board,
10 promptly produce his or her legible and current Alabama
11 embalmer wallet license certificate.

12 "§34-13-53.

13 "(a) Every licensed funeral director, every licensed
14 embalmer, and every licensed operator shall pay annually a fee
15 for renewal of his or her license. The renewal fees shall be
16 set by the board at a rate not to exceed one hundred fifty
17 dollars (\$150) for licensed embalmers and funeral directors
18 and five hundred dollars (\$500) for licensed operators.

19 "(b) All licenses granted under this chapter shall
20 expire on October 1, following their issuance or renewal, and
21 shall become invalid unless renewed as provided in this
22 section. There shall be no proration of licenses.

23 "(c) The board shall mail on or before August 1 of
24 each year to each licensed funeral director, to each licensed
25 embalmer, and to each licensed operator, addressed to him or

her at his or her last address, a notice that his or her renewal fee is due and payable and that, if such fee is not paid by October 1, the license shall lapse.

"(d) At the time, or before, a licensee changes place of employment, residence address, or makes any other change in status which is of record at the board office, the licensee shall report such change of status, on a form provided by the board, to the executive secretary.

"§34-13-55.

"(a) When a licensee, for any reason, has allowed his or her license to lapse, the board may reinstate the license if application for reinstatement is made within a period of six months from the lapse and is accompanied by payment of all penalties and lapsed fees, from the time of the lapse to date of reinstatement. The penalties to be paid to the board shall not exceed one hundred dollars (\$100) to reinstate licenses which have lapsed.

"(b) After the six-month period has elapsed, such license may be reinstated only by complying with the provisions relating to the issuance of an original license in addition to payment of all lapsed fees and penalties.

"§34-13-56.

"(a) The board may refuse to grant, refuse to renew, or suspend or revoke a license after proper hearing and notice

1 to the licensee, upon the licensee's being found guilty of any
2 of the following:

3 "(1) Conviction of a crime involving moral
4 turpitude.

5 "(2) Unprofessional conduct, which is defined to
6 include any of the following:

7 "a. Misrepresentation or fraud in the conduct of the
8 business or the profession of a funeral director or embalmer.

9 "b. False or misleading advertising as a funeral
10 director or embalmer or knowingly engaging in any advertising
11 which is misleading or inaccurate in any material particular.

12 "c. Solicitation of dead human bodies by the
13 licensee, his or her agents, assistants, or employees, from
14 medical professionals or clergy, whether the solicitation
15 occurs after death or while death is impending.

16 "d. Employment by the licensee of a person or
17 persons to be used for the purpose of obtaining or soliciting
18 funeral directing or embalming business.

19 "e. Employment directly or indirectly of any
20 apprentice, agent, assistant, embalmer, employee, or other
21 person, on part or full time or on commission, for the purpose
22 of calling upon individuals or institutions where a death has
23 occurred or is imminent by whose influence dead human bodies
24 may be turned over to a particular funeral director or
25 embalmer or funeral establishment, or both.

1 "f. The buying of business by the licensee, his or
2 her agents, assistants, or employees.

3 "g. Gross immorality.

4 "h. Aiding or abetting an unlicensed person to
5 practice funeral directing or embalming.

6 "i. Using profane, indecent, or obscene language in
7 the presence of a dead human body, or within the immediate
8 hearing of the family or relative of a deceased whose body has
9 not yet been interred or otherwise disposed of.

10 "j. Solicitation or acceptance by a licensee of any
11 commission or bonus or rebate in consideration of recommending
12 or causing a dead human body to be disposed of in any
13 mausoleum or cemetery.

14 "k. Any violation of this chapter.

15 "l. Any violation of state law or municipal or
16 county ordinance or regulation affecting the handling,
17 custody, care, or transportation of dead human bodies.

18 "m. Fraud or misrepresentation in obtaining a
19 license.

20 "n. Refusing to promptly surrender the custody of a
21 dead human body, upon the express order and payment for
22 services rendered of the person lawfully entitled to the
23 custody thereof.

1 "o. Performing services in a professional capacity
2 as a funeral director or embalmer, or both, for any unlicensed
3 funeral establishment operating in violation of this chapter.

4 "p. Being intoxicated or under the influence of
5 illegal drugs while on duty at a funeral establishment.

6 "q. Willfully retaining or willfully failing to
7 account for any property of a decedent.

8 "r. Knowingly and willfully signing a certificate as
9 having embalmed or prepared a body for burial when, in fact
10 the services were not performed by the licensee.

11 "s. Failure to give full cooperation to the board or
12 its designees, agents, or other representatives in the
13 performance of official duties of the board. Failure to give
14 full cooperation includes, but is not limited to, any of the
15 following:

16 "(i) Not furnishing any relevant papers or documents
17 requested by or for the board.

18 "(ii) Not furnishing, in writing, an adequate
19 explanation relating to a matter contained in a complaint
20 filed with the board against the licensee.

21 "(iii) Not responding to a subpoena issued by the
22 board, without good cause shown, whether or not the licensee
23 is the party charged in any proceeding before the board.

24 "(iv) Not providing reasonable access to the board
25 or an authorized agent or representative of the board for the

1 performance of reviews or inspections at facilities or places
2 utilized by the licensee in the practice of funeral service or
3 funeral directing or in performing any other activity
4 regulated by the board.

5 "(v) Failing to provide information within a
6 specific time as required by the board or an authorized agent
7 or representative of the board.

8 "(vi) Failing to cooperate with the board or an
9 authorized agent or representative of the board in the
10 investigation of any alleged misconduct or interfering with a
11 board investigation through the willful misrepresentation of
12 facts.

13 "(vii) Deceiving or attempting to deceive the board
14 regarding any matter under investigation, including the
15 altering or destroying of any records.

16 "(viii) Failure, without good cause, to cooperate
17 with any request from the board to appear before the board.

18 "(ix) Violating any statute, ordinance, or rule of
19 the state or any board, agency, or political subdivision of
20 the state affecting the registration of deaths or the
21 handling, custody, care, or transportation of dead human
22 bodies.

23 "(x) Violating any statute, ordinance, or rule of
24 the state or any board, agency, or political subdivision of
25 the state affecting the registration of deaths or the

1 handling, custody, care, or transportation of dead human
2 bodies.

3 "(xi) Demonstrating bad faith, incompetence, or
4 untrustworthiness or dishonest, fraudulent, or improper
5 dealing or any other violation of this chapter or any rule
6 promulgated by the board or promulgated by the Federal Trade
7 Commission relative to the practice of funeral service or
8 funeral directing.

9 "(b) In addition to the disciplinary actions
10 authorized in subsection (a), the board may levy and collect
11 administrative fines for violations of this chapter or the
12 rules or regulations of the board in an amount not less than
13 five hundred dollars (\$500) nor more than two thousand five
14 hundred dollars (\$2,500) for each violation.

15 "§34-13-70.

16 "(a) No person shall engage in, or attempt to engage
17 in, the practice or profession or business of a funeral
18 director unless licensed to do so by the Alabama Board of
19 Funeral Service. The board hereby is granted authority to
20 issue license to funeral directors.

21 "(b) Any person desiring to engage in the business,
22 profession, or practice of funeral director shall make
23 application to the board and shall accompany his or her
24 application by a fee to be established by the board, not to
25 exceed one hundred fifty dollars (\$150), whereupon the board

1 shall fix the time and place for the examination of the
2 applicant and shall notify the applicant thereof.

3 "(c) In addition, the board shall establish and
4 charge a reasonable examination fee, based on actual costs,
5 for each applicant who sits for an examination. In no event
6 shall the fee exceed fifty dollars (\$50) above the actual cost
7 of preparing and administering such exam.

8 "\$34-13-72.

9 "An applicant for a funeral director's license is
10 entitled to an examination if he or she satisfies all of the
11 following:

12 "(1) Is a citizen of the United States or legally
13 present in this state.

14 "(2) Is at least 18 years of age.

15 "(3) Has had practical experience as an apprentice
16 for not less than two years within a period of three
17 consecutive years, excluding time lost by interruptions caused
18 by the active duty of the applicant in the military service of
19 the United States or its allies during war or national
20 emergency, and excluding time lost by interruptions which the
21 board deems excusable as caused by circumstances beyond the
22 control of the applicant.

23 "(4) Has completed apprenticeship not more than two
24 years prior to taking the examination, excluding time lost
25 under the circumstances mentioned in subdivision (3).

"(5) Has completed a course of instruction in an accredited mortuary or funeral service school or college which has been approved by the board pursuant to Section 34-13-50, or has completed a bachelor's degree program from an accredited school.

"§34-13-73.

"(a) The applicant for a funeral director's license, before the application is granted, shall successfully pass an examination upon, but not limited to, the following subjects: Funeral directing, the manners in which death may be determined, the laws governing the preparation and disposal of human dead bodies and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing. The examination shall be prepared and graded as prescribed by rule of the board. The board may review and adopt, in whole or in part, examination questions, forms, examinations, and passing criteria proposed by the American Board of Funeral Service Education, or a successor organization, and may use the uniform nationwide conditions of the International Conference of Funeral Service Examining Boards, or other organization approved by the board.

"(b) The board shall examine applicants for a funeral director's license in all of the following subjects:

"(1) Mortuary management and administration.

1 "(2) Mortuary law.

2 "(3) Basic accounting principles.

3 "(4) Funeral directing.

4 "(5) Other courses of instruction in fundamental
5 subjects as may be prescribed by the board.

6 "(c) All examination papers shall be kept on file by
7 the board for at least three years.

8 "(d) To constitute a passing grade, an applicant
9 shall earn an average score of at least 75 percent.

10 "(e) If the board is satisfied that an applicant has
11 the requisite qualifications to practice the occupation of
12 funeral directing, a license shall be issued authorizing the
13 applicant to practice such occupation until October 1 of that
14 year, at which time the license may be renewed as prescribed
15 in this chapter.

16 "§34-13-74.

17 "(a) When a licensed funeral director dies leaving a
18 licensed funeral business with no licensed funeral director,
19 the surviving spouse, or a surviving child of legal age, shall
20 have the right to make application for examination as a
21 funeral director. The application shall be in writing, on a
22 form prescribed by the board, and shall state the facts
23 pertaining to the case. The board may certify the applicant
24 for the examination prescribed for funeral directors, in which

1 event the requirements with respect to prior experience and
2 apprenticeship shall be waived.

3 "(b) When a licensed funeral director dies leaving a
4 licensed funeral business with no licensed funeral director,
5 the board may issue a special operating permit to the operator
6 of such licensed funeral business for a period of 12 months,
7 with the board having the right to extend the permit an
8 additional reasonable time to afford such operator the
9 opportunity of obtaining a licensed funeral director for such
10 business. The operator shall be required to pay a fee for the
11 issuance of the special operating permit in an amount not
12 exceeding one hundred dollars (\$100).

13 "(c) All human remains embalmed for a funeral
14 establishment operating under a special operating permit and
15 all funeral directing operations carried on under the permit
16 shall be in conformance with all the requirements of this
17 chapter which are not in conflict with this section.

18 "§34-13-90.

19 "(a) No person shall follow, engage in, or hold
20 himself or herself out as engaged in the practice as an
21 embalmer unless licensed to do so by the Alabama Board of
22 Funeral Service. The board is granted authority to issue
23 licenses to embalmers.

24 "(b) All persons shall qualify for examination in
25 accordance with this chapter and shall be licensed as an

1 embalmer only after due examination by the board and the
2 payment of an examination and license fee to be established by
3 the board, not to exceed five hundred dollars (\$500).

4 "(c) In addition, the board shall establish and
5 charge a reasonable examination fee, based on actual costs,
6 for each applicant who sits for an examination. In no event
7 shall the fee exceed fifty dollars (\$50) above the actual cost
8 of preparing and administering such exam.

9 "§34-13-94.

10 "(a) The board shall examine applicants for an
11 embalmer's license in all of the following subjects:

12 "(1) Mortuary management and administration.

13 "(2) Legal medicine and toxicology.

14 "(3) Public health, hygiene, and sanitary science.

15 "(4) Mortuary science, to include embalming
16 technique, in all aspects; chemistry of embalming, color
17 harmony; discoloration, its causes, effect, and treatment;
18 treatment of special cases; restorative art; funeral
19 management; and professional ethics.

20 "(5) Anatomy and physiology.

21 "(6) Chemistry, organic and inorganic.

22 "(7) Pathology.

23 "(8) Bacteriology.

24 "(9) Sanitation and hygiene.

25 "(10) Public health regulations.

1 "(11) Other courses of instruction in fundamental
2 subjects as may be prescribed by the board.

3 "(b) All examination papers shall be kept on file by
4 the board for at least three years.

5 "(c) To constitute a passing grade, an applicant
6 shall earn an average score of at least 75 percent.

7 "(d) The board may issue an embalmer's license to an
8 applicant who receives a passing grade on a recognized
9 national embalmer's examination approved by the board.

10 "(e) If the board is satisfied that the applicant
11 has the requisite qualifications to practice the occupation of
12 embalming, a license shall be issued to him or her authorizing
13 him or her to practice such occupation until October 1 of that
14 year, at which time the license may be renewed as prescribed
15 in this chapter.

16 "§34-13-111.

17 "(a) No funeral establishment or branch thereof for
18 the preparation, disposition, and care of dead human bodies
19 shall be opened or maintained unless duly licensed by the
20 board. No funeral establishment or branch shall be moved
21 without obtaining a new funeral establishment license from the
22 board.

23 "(b) The board shall set a fee, not exceeding one
24 hundred fifty dollars (\$150), that shall be in addition to the
25 license fee for the first inspection of any funeral

1 establishment seeking a license under Section 34-13-72 made
2 for the purpose of determining whether such funeral
3 establishment has fulfilled the requirements for licensure
4 pursuant to this chapter. The board shall set a fee, not
5 exceeding one hundred fifty dollars (\$150), for each
6 reinspection necessitated by failure of any funeral
7 establishment to pass such first inspection. The board, or a
8 representative of the board, shall annually conduct a minimum
9 of one unannounced inspection of funeral establishments and
10 branches, with an inspection fee of not more than one hundred
11 dollars (\$100). The inspection fee shall be submitted to the
12 board within 45 days after the inspection. Any funeral
13 establishment that does not submit the inspection fee within
14 45 days shall be charged a late penalty fee, as established by
15 the board. A funeral establishment, or branch thereof, that is
16 used for the preparation, disposition, and care of dead human
17 bodies shall meet and conform to this chapter and to such
18 other lawful standards and requirements as may be determined
19 by rule of the board in furtherance of this chapter; and, for
20 failure to do so, the board may revoke such license in
21 accordance with the procedure set forth in this chapter.

22 "(c) Applications for transfer of a license to
23 another location in the same county shall be made upon blanks
24 furnished by the board and shall be accompanied by a fee of
25 not more than seventy-five dollars (\$75). The fee for a new

1 branch or location for a funeral establishment shall be \$250.
2 Any change in ownership shall be immediately reported to the
3 board.

4 "§34-13-113.

5 "(a) Application for a license to operate a funeral
6 establishment shall be made in writing on a form provided by
7 the board. The application shall be verified by the applicant
8 or, if the applicant is a corporation, firm, or other
9 organization, by an officer or member thereof, and shall be
10 accompanied by an application fee established by the board not
11 to exceed five hundred dollars (\$500). The application shall
12 disclose all of the following:

13 "(1) The name and address of the establishment.

14 "(2) That the establishment is operated by a
15 licensed funeral director and a licensed embalmer or a person
16 licensed both as a funeral director and embalmer.

17 "(3) A description and photographs of the buildings,
18 equipment, and facilities of the establishment.

19 "(4) That the establishment has a sanitary, properly
20 equipped embalming room, a room suitable for public viewing or
21 other funeral services that is able to accommodate a minimum
22 of 100 people, an office for arrangement conferences with
23 relatives or authorized representatives, and a display room
24 containing a stock of adult caskets and funeral supplies
25 displayed in full size, cuts, photographs, or electronic

1 images. At no time shall less than eight different adult full
2 size caskets and at least one operating and properly licensed
3 funeral coach or hearse equipped for transporting human
4 remains in a casket or urn be on the premises.

5 "(5) Such other information as may be required by
6 the board.

7 "(b) Upon receipt of the application, the board
8 shall make inspection of the funeral establishment. If the
9 board determines that the establishment meets the
10 qualifications prescribed by law, it shall issue a license to
11 operate a funeral establishment.

12 "(c) Application for a license to operate a mortuary
13 service shall be made in writing on a form provided by the
14 board. The application shall be verified by the applicant or,
15 if the applicant is a corporation, firm, or other
16 organization, by an officer or member thereof, and shall be
17 accompanied by an application fee established by the board not
18 to exceed five hundred dollars (\$500). The application shall
19 disclose all of the following:

20 "(1) The name and address of the proposed mortuary
21 service.

22 "(2) That the mortuary service applicant is operated
23 by a licensed embalmer or a person licensed both as a funeral
24 director and embalmer.

1 "(3) A description and photographs of the buildings,
2 equipment, and facilities of the mortuary service applicant.

3 "(4) That the mortuary service applicant has a
4 sanitary, properly equipped embalming room.

5 "(5) Such other information as may be required by
6 the board.

7 "(d) Upon receipt of the application, the board
8 shall make inspection of the premises of the mortuary service
9 applicant. If the board determines that the mortuary service
10 applicant meets the qualifications prescribed by law, it shall
11 issue a license to operate a mortuary service.

12 "§34-13-114.

13 "(a) An operator of a funeral establishment licensed
14 under subsections (a) and (b) of Section 34-13-113 who desires
15 to change the name of the establishment may have his or her
16 license reissued, in the changed name, upon application to the
17 board and payment of a fee not exceeding seventy-five dollars
18 (\$75).

19 "(b) An operator of a mortuary service licensed
20 under subsections (c) and (d) of Section 34-13-113 who desires
21 to change the name of the mortuary service may have his or her
22 license reissued, in the changed name, upon application to the
23 board and payment of a fee set by the board.

24 "§34-13-115.

1 "(a) The board may revoke, suspend, or refuse to
2 renew a license issued to an operator of a funeral
3 establishment or mortuary service as provided in this chapter.

4 "(b) If, upon a complaint made to it or otherwise,
5 the board has reason to believe that the operator of a funeral
6 establishment or mortuary service has failed to comply with
7 this chapter or the regulations of the board, it shall conduct
8 an investigation. If it appears to the board that there is
9 reasonable ground to believe that the operator has failed so
10 to comply, it shall conduct a hearing on the matter. Notice of
11 the time and place of the hearing, setting forth the respects
12 in which failure to comply is charged, shall be sent to the
13 operator no later than 15 days prior to the date set for the
14 hearing. The operator may have the assistance of counsel at
15 the hearing.

16 "(c) If, upon the hearing, the board finds that the
17 operator has failed to comply with this chapter or the
18 regulations of the board, it may revoke, suspend, or refuse to
19 renew the license.

20 "§34-13-116.

21 "Any person, firm, partnership, society, group, or
22 corporation who has control of a funeral home, mortuary,
23 chapel, funeral establishment, or mortuary service and fails
24 to register same according to this chapter, upon conviction,
25 may be fined not less than five hundred dollars (\$500) nor

1 more than two thousand five hundred dollars (\$2,500) for each
2 violation, and each day that the funeral home, mortuary,
3 chapel, funeral establishment, or mortuary service is operated
4 shall be deemed to be a separate and distinct violation of
5 this chapter.

6 "§34-13-120.

7 "(a) It shall be unlawful for any person, firm,
8 corporation, association, or entity to operate a crematory or
9 practice cremation without the crematory being licensed as a
10 funeral establishment in accordance with this chapter.

11 "(b) Any funeral establishment performing cremation
12 services shall certify by affidavit to the board that any
13 cremationist conducting cremations has received adequate and
14 appropriate training or experience in the practice of
15 cremation.

16 "(c) The board shall adopt and enforce rules and
17 regulations as may be reasonable and necessary for the
18 operation of crematories to protect the health, welfare, and
19 safety of the people of this state.

20 "(d) The board shall inspect the records and
21 premises of any funeral establishment operating a crematory.
22 In making inspections, the board shall have access to all
23 records, the crematory building, the cremation chambers or
24 furnaces, and the storage areas for human remains before and
25 after cremation, during regular office hours or the hours the

1 crematory is in operation. No prior notification of the
2 inspection is required to be given to the funeral
3 establishment. If any funeral establishment performing
4 cremation services fails to allow an inspection or any part
5 thereof, it shall be grounds for the suspension or revocation
6 of a license or other disciplinary action against the
7 licensee, as the board may deem reasonable and necessary to
8 the extent of the law. The board shall conduct annually a
9 minimum of one unannounced inspection of each licensed funeral
10 establishment performing cremation services.

11 "(e) Each funeral establishment performing cremation
12 services shall keep records as required by the board to assure
13 compliance with all laws relating to the disposition of human
14 remains and shall file annually with the board a report in the
15 form prescribed by the board, describing the operations of the
16 licensee, including the number of cremations made, the
17 disposition thereof, and any other information as the board
18 may, from time to time, require.

19 "(f) Each funeral establishment performing cremation
20 services shall report to the board any maintenance or
21 inspections performed within 30 days of the maintenance or
22 inspection.

23 "(g) A funeral establishment performing cremation
24 services shall be subject to all local, state, and federal
25 health and environmental protection requirements and shall

1 obtain all necessary licenses and permits from the Alabama
2 Board of Funeral Service, the federal and state Departments of
3 Health and Human Services, and the state and federal
4 Environmental Protection Agencies, or other appropriate local,
5 state, or federal agencies.

6 "(h) No crematory facility licensed by the board may
7 be used for the cremation of deceased animals.

8 "\$34-13-130.

9 "(a) Every person desiring to engage as an
10 apprentice shall make application as a funeral director's
11 apprentice or an embalmer's apprentice to the board upon a
12 form provided by the board. The application shall state that
13 the applicant is over the age of 16, holds a high school
14 certificate or the equivalent, or is currently enrolled and
15 actively working toward graduation from an accredited high
16 school and is of good moral character. The application shall
17 be verified by the oath of applicant and be accompanied by a
18 fee to be established by the board, not to exceed twenty
19 dollars (\$20). The executive secretary, whenever it appears to
20 him or her that no reason exists for the denial of an
21 application and that the application is regular upon its face,
22 may issue to the applicant a certificate of apprenticeship,
23 without submitting the application to the board. If, however,
24 any doubt exists as to the qualifications of the applicant,
25 the application shall be submitted to the board and may be

1 accepted or rejected by a majority of the board. The period of
2 apprenticeship of a funeral director's apprentice or an
3 embalmer's apprentice must be performed in Alabama under the
4 supervision of a funeral director or embalmer, respectively,
5 licensed by the board.

6 "(b) The regular course of apprenticeship shall be
7 two years, but the apprentice is entitled to two weeks time
8 off each year, without leave of absence from the board."

9 Section 2. All laws or parts of laws which conflict
10 with this act are repealed and specifically Section 34-13-28,
11 Code of Alabama 1975, providing for the reporting of receipts
12 and disbursements of the board to the Governor and the
13 Legislature, and Article 4, consisting of Sections 34-13-150,
14 34-13-151, and 34-13-152, of Chapter 13, Title 34, Code of
15 Alabama 1975, relating to donor eye enucleation licenses, are
16 repealed.

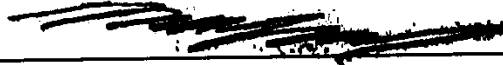
17 Section 3. The provisions of this act are severable.
18 If any part of this act is declared invalid or
19 unconstitutional, that declaration shall not affect the part
20 which remains.

21 Section 4. This act shall become effective October
22 1, 2011, following its passage and approval by the Governor,
23 or its otherwise becoming law.

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Kay Ivey

President and Presiding Officer of the Senate



Speaker of the House of Representatives

SB94

Senate 27-APR-11

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 02-JUN-11

By: Senator Keahey

APPROVED *June 9, 2011*
TIME *1:41 p.m.*
Robert Bentley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2011-623
Bill Num....: S-94

Recv'd 06/09/11 05:29pmTLW

Current Statutes

CHAPTER 13. FUNERAL SERVICES.

ARTICLE 1. . GENERAL PROVISIONS.

§ 34-13-1. Definitions.

[AL ST SEC 34-13-1]

Current through the end of the 2010 Regular Session.

(a) For purposes of this chapter, the following terms shall have the following meanings:

(1) Accredited school or college of mortuary science. A school or college approved by the Alabama Board of Funeral Service and which maintains a course of instruction of not less than 48 calendar weeks or four academic quarters or college terms and which gives a course of instruction in the fundamental subjects as set forth, but not limited to, the following:

- a. Mortuary management and administration.
- b. Legal medicine and toxicology as it pertains to funeral directing.
- c. Public health, hygiene, and sanitary science.
- d. Mortuary science, to include embalming technique, in all its aspects; chemistry of embalming, color harmony; discoloration, its causes, effects, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- e. Anatomy and physiology.
- f. Chemistry, organic and inorganic.
- g. Pathology.
- h. Bacteriology.
- i. Sanitation and hygiene.
- j. Public health regulations.
- k. Other courses of instruction in fundamental subjects as may be prescribed by the Alabama Board of Funeral Service.

(2) American Board of Funeral Service Education. That funeral service educational organization which is an agency granted official recognition by the United States Secretary of Education and which is composed of members representing the American Association of College of Mortuary Science, the Conference of Funeral Service Examining Board of the United States, Inc., the National Association of Colleges of Mortuary Science, and the University Mortuary Science Education Association and which has as its object the furtherance of education in the field of funeral service and in fields necessary to, or allied with, the field of funeral service, and further to formulate standards of funeral service education and to grant accreditation to qualified schools and colleges of mortuary science and to do all things incidental to the foregoing.

(3) Apprentice embalmer or embalmer's apprentice. Any person engaged in the study of the art of embalming under the instructions and supervision of a licensed embalmer practicing in this state.

(4) Apprentice funeral director or funeral director's apprentice. Any person operating under or in association with a funeral director for the purpose of learning the business or

profession of funeral director, to the end that he or she may become licensed under the provisions of this chapter.

(5) Authorizing agent. A person at least 18 years of age, except in the case of a surviving spouse or parent, who is legally entitled to order the cremation or final disposition of particular human remains.

(6) Board. The Alabama Board of Funeral Service.

(7) Cemetery. A place dedicated to and used or intended to be used for the permanent interment of human remains. It may be either land or earth interment; a mausoleum for vault or crypt entombment; a structure or place used or intended to be used for the interment of cremated remains; cryogenic storage; or any combination of one or more thereof.

(8) Cemetery authority. Any individual, person, firm, profit or nonprofit corporation, trustee, partnership, society, religious society, church, association or denomination, municipality, or other group or entity, however organized, insofar as they or any of them may now or hereafter establish, own, operate, lease, control, or manage one or more cemeteries, burial parks, mausoleums, columbariums, or any combination or variation thereof, or hold lands or structures for burial grounds or burial purposes in this state and engage in the operation of a cemetery, including any one or more of the following: The care and maintenance of a cemetery; the interment, entombment, and memorialization of the human dead in a cemetery; the sale, installation, care, maintenance, or any combination thereof, with respect of monuments, markers, foundations, memorials, burial vaults, urns, crypts, mausoleums, columbariums, flower vases, floral arrangements, and other cemetery accessories, for installation or use within a cemetery; and the supervision and conduct of funeral and burial services within the bounds of the cemetery. It is the legislative intent of this chapter that a cemetery authority, to the extent that it engages in any of the activities described in this subdivision, shall not be affected by this chapter and shall not be deemed to have entered into or engaged in the practice of funeral directing, embalming, or funeral establishment operation.

(9) Cremation. The technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

(10) Cremationist. A person who performs the procedure of cremation.

(11) Crematory. A building or portion of a building that houses a retort and that may house a holding facility for purposes of cremation and as part of a funeral establishment.

(12) Embalmer. Any person engaged or holding himself or herself out as engaged in the business, practice, science, or profession of embalming, whether on his or her own behalf or in the employ of a registered and licensed funeral director.

(13) Embalming. The practice, science, or profession, as commonly practiced, of preserving, disinfecting, and preparing by application of chemicals or other effectual methods, human dead for burial, cremation, or transportation.

(14) Funeral directing. The practice of directing or supervising funerals, the practice of preparing dead human bodies for burial by means other than embalming, or the preparation for the disposition of dead human bodies; the making of arrangements or providing for funeral services or the making of financial arrangements for the rendering of these services or the sale of this merchandise or supplies; the provision or maintenance of a place for the preparation for disposition of dead human bodies; or the use of the words or term "funeral director," "undertaker," "mortician," "funeral parlor," or any other word or term from which

can be implied the practice of funeral directing; or the holding out to the public that one is a funeral director or engaged in a practice described in this subdivision.

(15) Funeral director. A person required to be licensed to practice the profession of funeral directing under the laws of this state, who meets the public, who plans details of funeral services with members of the family and minister or any other person responsible for such planning, or who directs, is in charge, or apparent charge of, and supervises funeral service in a funeral home, church, or other place; who enters into the making, negotiation, or completion of financial arrangements for funerals, including, but not limited to, the sale and selection of funeral supplies, or who uses in connection with the profession of funeral directing the words or terms "funeral director," "undertaker," "funeral counselor," "mortician," or any other word, term, or picture or combination thereof when considered in context in which used, from which can be implied the practicing of the profession of funeral directing or that the person using such word, term, or picture can be implied to be holding himself or herself out to the public as being engaged in the profession of funeral directing; and for all purposes under Alabama law, a funeral director is considered a professional; provided, for the purposes of this chapter, the term or terms shall not include any cemetery authority as defined in this section.

(16) Funeral establishments. The term "funeral home," "mortuary," or "funeral establishment" shall be construed to be a place at a specific street address or location where the profession of funeral directing, embalming, or cremation, as defined in this chapter, is practiced in the care, planning, and preparation for burial or cremation or transportation of human dead, but shall not include any cemetery or land or structure owned, operated, leased, controlled, or managed by any cemetery authority as a cemetery. All of such places shall consist of and shall maintain the following facilities:

- a. A preparation room equipped with a sanitary floor and necessary drainage and ventilation and containing necessary approved tables, instruments, and supplies for the preparation and embalming of dead human bodies for burial, cremation, and transportation.
- b. A display room containing a stock of adult caskets and funeral supplies.
- c. At least one motor vehicle equipped for transporting human remains in a casket or urn.
- d. If engaged in the practice of cremation, at least one operable retort for cremation and an adequate supply of urns for display and sale.

(17) Funeral supplies or funeral merchandise. Caskets made of any material for use in the burial or transportation of human dead; outer receptacles, when sold by a funeral director, including burial vaults and urns, for cremated human remains; clothing used to dress human dead when sold by a funeral director; and all equipment and accouterments normally required for the preparation for burial or funeral and other disposition of human dead.

(18) Mortuary science. The scientific, professional, and practical aspects, with due consideration given to accepted practices, covering the care, preparation for burial, or transportation of dead human bodies, which shall include the preservation and sanitation of the bodies and restorative art and those aspects related to public health, jurisprudence, and good business administration.

(19) Operator. A person, corporation, firm, legal representative, or other organization owning or operating a funeral establishment.

(20) Practical embalmers. Any person who has been actively and continuously engaged or employed in the practice of embalming under the supervision of a licensed embalmer for four consecutive years immediately preceding May 1, 1975, and has been issued a license as a practical embalmer under the grandfather provisions of this chapter.

(21) Processing or pulverization. The reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments or granulated particles by manual or mechanical means.

(22) Retort. An enclosed space within which the cremation process takes place.

(23) Temporary container. A receptacle for cremated remains, usually composed of cardboard, plastic, or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered or buried.

(24) Urn. A receptacle designed to encase cremated remains.

(b) Nothing in this chapter shall require a funeral director or funeral establishment to have or provide a chapel or to restrict, in any manner, the conduct of funeral services from a church or chapel.

(c) Nothing contained in the definition of funeral directing, or in any other provision of this chapter, shall be deemed or construed to be applicable to, or to regulate or restrict, in any manner, cemetery authorities in the conduct of activities of a cemetery authority as defined in this chapter; or to be applicable to, or to regulate or restrict, in any manner, the carrying on by any cemetery authority of any and all activities, functions, practices, and services which may now or hereafter (i) constitute any part of the operation or management of a cemetery or of the property of a cemetery as defined in this chapter or (ii) otherwise consist of the interment or entombment of the human dead or memorialization of the human dead in any manner within a cemetery property.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 2; Acts 1983, No. 83-746, p. 1235, § 1; Act 2002-239, p. 498, § 1.)

§ 34-13-2. Purpose of chapter.

[AL ST SEC 34-13-2]

Current through the end of the 2010 Regular Session.

It is declared and established that the procedures for making final disposition of human dead, including embalming and funeral directing, are so affected with the public interest as to require regulation and control of such included occupations and that, additionally, such regulation and control are necessary for the prevention of the spread of infectious and contagious diseases, for the protection of the health and welfare of the people of the state and that all of the provisions of this chapter and regulations authorized to be made are necessary to effectuate its purpose; and all of the provisions of this chapter shall be construed liberally and in a manner to carry out its obvious intents and purposes.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 1.)

§ 34-13-3. Applicability of chapter.

[AL ST SEC 34-13-3]

Current through the end of the 2010 Regular Session.

This chapter does not apply to any cemetery or cemetery authority or to any public institution, medical college, county medical society, anatomical association, college of embalming, or any officer thereof, or to any other recognized person carrying out the provision of the statutes of the State of Alabama prescribing the conditions under which indigent human dead bodies are held subject for scientific or anatomical study; provided, that nothing in this section shall be construed to give any cemetery or cemetery authority or any other person or entity the right to enter into or engage in any funeral home operation or the practice of embalming or funeral directing or any related funeral home or funeral directing activities. Nor shall this chapter include any temporary or occasional or extra help to assist in the conduct of a funeral employed on such basis by a funeral director, provided such funeral is under the general supervision of a licensed funeral director.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 11.)

§ 34-13-4. Publication of statutes and regulations.

[AL ST SEC 34-13-4]

Current through the end of the 2010 Regular Session.

Upon request, the board shall distribute to funeral directors, embalmers, and apprentices and such other persons as may be interested therein, in pamphlet form, the provisions of this chapter together with all rules and regulations prescribed, adopted, or promulgated pursuant to this chapter, together with a complete and current list of all persons and establishments licensed under this chapter.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 35; Acts 1981, No. 81-200, p. 234, § 4; Acts 1983, No. 83-746, p. 1235, § 1.)

§ 34-13-5. Courts having jurisdiction; initiation of proceedings.

[AL ST SEC 34-13-5]

Current through the end of the 2010 Regular Session.

Circuit courts shall have jurisdiction in all prosecutions arising under this chapter. The district attorney is authorized to institute prosecutions for violations of this chapter by information, or prosecutions may be instituted by indictment or by complaint verified before any magistrate.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 38.)

§ 34-13-6. Recourse by a licensee against unreasonable orders or wrongful interpretations by the board.

[AL ST SEC 34-13-6]

Current through the end of the 2010 Regular Session.

In the event a licensee under this chapter should have cause to believe that the board, or a member or members thereof, has used the powers of the board to promulgate orders or rulings or

requirements not intended by this chapter and that such orders or rulings or requirements are used to subject the licensee to unreasonable and wrongful interpretations of this chapter by the board or that the board or a member or members thereof have imposed the powers of the board or the wrongful interpretations of this chapter upon the licensee to such extent that it constitutes harassment of the licensee, then the licensee may take an appeal for relief to the circuit court of the county in which the licensee practices embalming, funeral directing, or operates a funeral establishment as prescribed in Section 34-13-31.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 47.)

§ 34-13-7. Embezzlement, abstracting, or willfully misapplying moneys collected; bribery.
[AL ST SEC 34-13-7]

Current through the end of the 2010 Regular Session.

Each and every person who embezzles, abstracts, or willfully misapplies any of the moneys, funds, security, or credit of the Alabama Board of Funeral Service or who misuses any of the funds or fees so collected, by virtue of this chapter, and any person who, with like intent, aids or abets any person in violation of this chapter, or any portion thereof, shall be deemed guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than \$500.00 nor exceeding \$5,000.00 and imprisonment in the penitentiary for a period of not less than one year and not more than five years, and the principal offenders and those aiding and abetting same may be charged in the same count, and separate offenses may be charged, in separate counts, in the same indictment and tried together. Any person found guilty of offering or of accepting a bribe whereupon any person is illegally licensed to practice embalming, funeral directing, or to operate a funeral establishment in this state shall be punished by a fine of not less than \$500.00 and may be imprisoned in the penitentiary for a period of one to three years, and the principal offenders and those aiding and abetting same may be charged in the same count and separate offenses may be charged in separate counts in the same indictment and tried together.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 48.)

§ 34-13-8. Certified copy of official documents.

[AL ST SEC 34-13-8]

Current through the end of the 2010 Regular Session.

On application of any person and payment of the cost thereof, the executive secretary of the board shall furnish, under the seal of the board and signed by the executive secretary, a certified copy of any license, rule, regulation, or order. In any court or proceeding such copy shall be prima facie evidence of the fact of the issuance of such license, regulation, rule, or order and that such is effective as of the date of such certificate.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 51.)

§ 34-13-9. Pricing requirements and methods of quoting prices.

[AL ST SEC 34-13-9]

Current through the end of the 2010 Regular Session.

Each funeral home shall have a card or brochure in each casket stating the price of the funeral service using the casket and listing the services and other merchandise included in the price. Where there are separate prices for the casket, the professional services, the use of facilities, and the use of equipment, such card shall indicate the price of each such item, except in those instances such as unknown transportation costs and similar items, which services must be stated with the price to be fixed upon billing. When the arrangers decide on the type of service desired, the firm must provide or cause to be provided to the person or persons making the arrangements, at the time such arrangements are completed and prior to the time of rendering the service or providing the merchandise, a written statement showing (1) the price of the service that the person or persons have selected and what is included therein; (2) the price of each of the supplemental items of service and merchandise requested; (3) the amount involved for each of the items for which the funeral service home will advance money as an accommodation to the family; and (4) the method of payment. No additional charges shall be made without approval of the arrangers except as stated in this section.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 52.)

§ 34-13-10. Violations.

[AL ST SEC 34-13-10]

Current through the end of the 2010 Regular Session.

Unless otherwise provided herein, violation of any part of this chapter shall be a misdemeanor and shall be punishable as such under the laws of Alabama. It is further provided that those actions specifically enumerated in subdivisions (2)a. through (2)f., (2)h., (2)j., (2)m., and (2)n. of Section 34-13-56 shall be punishable as a misdemeanor and may be prosecuted accordingly.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 53; Acts 1981, No. 81-200, p. 234, § 4.)

§ 34-13-11. Authorizing agent.

[AL ST SEC 34-13-11]

Current through the end of the 2010 Regular Session.

The following persons, in the priority listed herein, may serve as an authorizing agent:

(1) The person designated by the decedent as authorized to direct disposition pursuant to Public Law No. 109-163, Section 564, as listed on the decedent's United States Department of Defense Record of Emergency Data, DD Form 93, or its successor form, if the decedent died while serving on active duty in any branch of the United States Armed Forces, United States Reserve Forces, or National Guard.

(2) The decedent's spouse at the time of the decedent's death.

(3) The decedent's surviving children. If there is more than one child who qualifies as an authorizing agent, any such child may serve as the authorizing agent except, in the case of a cremation, such child must submit by affidavit the consent of all other surviving children to serve as authorizing agent. If any surviving child is unable to be notified of a pending cremation, the remaining children may select the authorizing agent by submission of legal documentation of the inability to notify the absent child or children. If the funeral director receives written objection to such cremation from any child before cremation, no cremation

shall be performed except upon the written withdrawal of the objection or upon the order of a court of competent jurisdiction.

(4) The decedent's surviving parents. If the decedent is survived by two parents, either parent may serve as the authorizing agent except, in the case of a cremation, such parent must submit by affidavit the consent of the other surviving parent to serve as authorizing agent. If the other surviving parent is unable to be notified of a pending cremation, a parent may serve as the authorizing agent by submission of legal documentation of the inability to notify the absent parent. If the funeral director receives written objection to such cremation from either parent before cremation, no cremation shall be performed except upon the written withdrawal of the objection or upon the order of a court of competent jurisdiction.

(5) The decedent's surviving siblings. If there is more than one sibling who qualifies as an authorizing agent, any sibling may serve as the authorizing agent except, in the case of a cremation, such sibling must submit by affidavit the consent of all other surviving siblings to serve as authorizing agent. If any surviving sibling is unable to be notified of a pending cremation, the remaining siblings may select the authorizing agent by submission of legal documentation of the inability to notify the absent sibling or siblings. If the funeral director receives written objection to such cremation from any sibling before cremation, no cremation shall be performed except upon the written withdrawal of the objection or upon the order of a court of competent jurisdiction.

(6) Any person acting on the decedent's signed written instructions regarding final disposition contained in a preneed funeral contract and, in the case of cremation, a cremation authorization form signed by the decedent.

(7) Any person serving as executor or legal representative of a decedent's estate and acting on the decedent's signed, written instructions contained in a will or other writing, regardless of whether the will has been probated.

(8) The person in the next degree of kinship under the laws of descent and distribution to inherit the decedent's estate. If there is more than one person of the same degree, any such person may serve as the authorizing agent.

(9) In the case of indigents or any other individuals whose final disposition is the responsibility of the state or any of its subdivisions or agencies, a public administrator, medical examiner, coroner, or any other public official charged with arranging the final disposition shall serve as the authorizing agent in the absence or refusal of any person described in subdivisions (2) to (8), inclusive.

(10) In the absence or refusal of any person described in subdivisions (2) to (8), inclusive, any person willing to assume the responsibility as authorizing agent.

CREDIT(S)

(Act 2002-239, p. 498, § 3; Act 2010-701, § 1.)

§ 34-13-12. Liability of funeral director or establishment.

[AL ST SEC 34-13-12]

Current through the end of the 2010 Regular Session.

(a) A funeral director or funeral establishment that has received expressed written authorization for final disposition or cremation from the authorizing agent shall not be liable for the final disposition or cremation of the human remains designated by the authorization if the disposition or cremation is performed in accordance with this chapter, nor shall a funeral director or funeral establishment be liable for following, in a reasonable fashion, the instructions of any

person who falsely represents being the proper authorizing agent.

(b) Absent the receipt of a court order or other suitable confirmation of resolution, a funeral director or funeral establishment may not be liable for refusing to accept human remains for final disposition or for refusing to perform a cremation, if the funeral director or other agent of the funeral establishment: (1) Is aware of any dispute concerning the final disposition or cremation of the human remains; or (2) has a reasonable basis for questioning any of the representations made by the authorizing agent. A funeral director or other agent of the funeral establishment may not be liable for refusing to accept human remains for any lawful reason.

CREDIT(S)

(Act 2002-239, p. 498, § 3.)

ARTICLE 2. . BOARD OF FUNERAL SERVICE.

§ 34-13-20. Creation; composition; qualifications of members; appointment; terms of office.

[AL ST SEC 34-13-20]

Current through the end of the 2010 Regular Session.

(a) There is established the Alabama Board of Funeral Service, consisting of seven members, each of whom shall be citizens of the United States and of the State of Alabama. All members of the former Alabama Embalming Board who are holding office on September 10, 1975, by virtue of that office, shall become members of the Alabama Board of Funeral Service for the term ending December 31, 1976. Not more than one member of the Alabama Board of Funeral Service may reside in the same district as created under Section 34-13-21, and if more than one member of the State Embalming Board resides in one district at the time of the organization of the board, the Governor shall select one member of the Embalming Board to be a member of the original Alabama Board of Funeral Service from the district, and the other member of the Embalming Board shall not be eligible for membership on the board.

(b) At a special meeting called for such purpose, to be held in Montgomery, within 45 days from September 10, 1975, the Alabama Funeral Directors Association, Incorporated, and the Alabama Funeral Directors and Morticians Association, Incorporated, in joint meeting, shall nominate three qualified persons for each of the positions as members of the original board of the Alabama Board of Funeral Service which are not filled by members of the State Embalming Board. The names of such persons so nominated shall be promptly certified by the secretary of the Alabama Funeral Directors Association, Incorporated, and the Alabama Funeral Directors and Morticians Association, Incorporated, to the Governor who shall appoint the members of the board from among the persons so nominated. Not more than four members of the board at any time may be members of the same race and the membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. Four members shall be appointed for a term ending December 31, 1977, and the board shall be constituted so that the terms of three members of the board shall end December 31, 1976, and the

terms of four members shall end December 31, 1977. The terms of the members of the State Embalming Board, who become members of the Alabama Board of Funeral Service under this chapter, shall expire December 31, 1976, unless there are more than three such members, in which event, the Governor shall designate which of the three members of the State Embalming Board shall serve for terms ending December 31, 1976, and which shall serve for terms ending December 31, 1977.

(c) After selection of the original members of the Alabama Board of Funeral Service and during October of each year, all embalmers and all funeral directors licensed under this chapter shall meet in Montgomery, at a time and date in October and at a place fixed by the board, for the purpose of nominating three persons to the Governor for each vacancy on the board, and the Governor shall promptly appoint one of the three persons so nominated.

(d) The successors to the original members of the board shall be selected for terms of two years. After the terms of the original members of the board, four of the members serving on the board shall be practicing and licensed embalmers in Alabama for the last 10 consecutive years immediately preceding their appointment and shall be licensed embalmers and funeral directors in this state under this chapter. Three of the members shall have been actively engaged in funeral directing in Alabama for the last 10 consecutive years preceding their appointment and shall be licensed funeral directors of this state, under this chapter, and shall, at the time of their appointment to the board, be operators of funeral establishments in this state. If the license of a member of the board as a funeral director or embalmer should be revoked or suspended, such member shall automatically, by reason of such revocation or suspension, become ineligible to serve as a member of the board, and a new member, properly qualified, shall be selected in the same manner provided for appointment to the board. Should a member fail to qualify after appointment, then he or she shall automatically become ineligible to serve as a member of the board, and a new member, properly qualified, shall be appointed and shall serve the remainder of the term of the member so terminated. Each member of the board shall remain an active practicing funeral director or embalmer and funeral establishment operator during his or her tenure of service on the board. Each member may be reappointed for one additional two-year term, or new members may be appointed under this chapter. No person shall serve more than a total of four years as a member of the board. In no event shall more than one member of the board reside in one district. At each meeting where nominations are made for members of the board, only one licensed funeral director of each establishment shall have the right to vote for nominees.

(e) Any board member who is elected to the national board shall, upon his or her election, begin to serve the state board in an ex officio capacity only, for the duration of his or her national board term. A member, properly qualified, shall be selected in the same manner provided for appointment to the state board and shall serve the remainder of the term of the member elected to the national board.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 3; Acts 1983, No. 83-746, p. 1235, § 1; Act 2009-12, p. 22, § 3.)

§ 34-13-21. Membership districts.

[AL ST SEC 34-13-21]

Current through the end of the 2010 Regular Session.

There are hereby created, for the purpose of this chapter, seven geographical districts which shall be identical with the seven congressional districts as fixed and established by Section 17-

20-1, as may be amended. It is the purpose and intention of this section to provide that one member of the Alabama Board of Funeral Service shall be selected from each district, which shall be geographically identical with the congressional districts, and that three nominees to the Governor for appointment to the board shall be made from each district.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 4.)

§ 34-13-22. Meetings; quorum.

[AL ST SEC 34-13-22]

Current through the end of the 2010 Regular Session.

The Alabama Board of Funeral Service shall hold not less than one meeting quarterly for the purpose of examining applicants for licenses, such meeting to be held at such time and place as the board may determine after notice of such meeting has been given in the manner prescribed herein at least 15 days prior to such meeting. The board shall not have power to delegate to any person who is not a member of the board the authority to conduct or administer an examination for a license, it being the intent of this chapter that only members of the board may conduct or administer examinations for licenses. The board may hold such other meetings as it may deem necessary. Five or more members shall comprise a quorum. The board shall not meet on the premises of any embalming school or college of mortuary science; and, if any such meeting is held, all the proceedings of such meeting shall be void. If any application for license under this chapter is pending, the applicant or applicants shall be afforded the right to take the examination required hereunder at the date and place of such quarterly meeting.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 5; Acts 1983, No. 83-746, p. 1235, § 1.)

§ 34-13-23. Officers; procedural rules and regulations; compensation of members; executive secretary; disposition of fees and fines.

[AL ST SEC 34-13-23]

Current through the end of the 2010 Regular Session.

(a) The board appointed under the provisions of this chapter and each successor thereto is authorized to select from its own membership a chairman and to adopt and promulgate such rules and regulations for the transaction of its business and for the betterment and promotion of the standards of service and practice to be followed in the funeral service profession in the State of Alabama as it may deem expedient and consistent with the laws of this state and for the public good.

The chairman of the board shall preside at all meetings of the board unless otherwise ordered, and he shall exercise and perform all duties and functions incident to the office of chairman of the board.

The board may select also from its own membership a vice-chairman, a secretary, and a treasurer. No two offices shall be held by the same person. The chairman and vice-chairman shall not be of the same race.

(b) The treasurer shall give bond to the State of Alabama in the sum of \$10,000, and any premium payable for the bond shall be paid from the funds of the board. The bond shall be deposited with the Treasurer of the State of Alabama.

(c) Board members shall be reimbursed for their necessary traveling expenses and the

necessary expenses incident to their attendance upon the business of the board, and, in addition thereto, they shall receive the sum of \$50 per diem for every day not to exceed 10 days per year actually spent by the member upon the business of the board. The board may employ an executive secretary and associate executive secretary who shall each receive and be paid an annual salary to be fixed by the board, but not to exceed the salary level established and paid to cabinet officers in the state government. The salary shall be paid on a monthly basis. In addition, the executive secretary and associate executive secretary shall receive his or her necessary traveling and other incidental expenses as are incurred in the performance of duties, and all expenses, per diem, and compensation shall be paid out of the receipts of the board. At no time shall the operation of the board be an expense to the state, and at no time shall expenses of the board exceed the receipts hereof.

(d) The executive secretary of the board shall have complete supervision and be held responsible for the direction of the office of the board and shall have supervision over field inspection and enforcement of the provisions of this chapter and shall be responsible and answerable to the board. The associate executive secretary shall assist the executive secretary and perform such other duties as may be assigned to him or her by the board. The executive secretary and associate executive secretary shall not be of the same race.

(e) The executive secretary of the board shall keep a record in which shall be registered the name and business address of every person to whom licenses have been granted in accordance with this chapter, the number and date of the license and the date of each renewal. Upon request to do so, the executive secretary of the board shall supply each person licensed for the practice of embalming and funeral directing with a list of all persons and establishments holding a license under this chapter, then in force, giving the names of the persons, their business addresses, and the numbers of their licenses.

(f) It shall be the duty of the executive secretary of the board to prepare under the direction of the board and cause to be printed all forms required by this chapter to be prescribed by the board. All notices required to be mailed by any provision of this chapter shall be directed to the last known post office address of the party to whom the notice is sent.

(g) The executive secretary shall serve at the pleasure of the board and shall perform duties as may be necessary for the proper functioning of the board as the board may determine or as may be prescribed in this chapter. During and for three years after his or her employment, neither the executive secretary nor any member of his or her family within the third degree shall be employed by any funeral establishment.

(h) All fees and fines received under the provisions of this chapter shall be paid into a special fund in the State Treasury to be known as the Alabama State Funeral Directors and Embalmers Fund, which is hereby created, for the necessary and proper expenses of the board, and for a reasonable reserve for future use by the board. All moneys in the fund are hereby appropriated, as a continuing appropriation, to the Alabama Board of Funeral Service to be used for carrying out any of the provisions of this chapter.

(i) Each member of the board, the executive secretary, the associate executive secretary, and designated employees of the board appropriately identified are authorized on complaint or for inspection purposes to enter the office, premises, establishment, or place of business of any funeral service licensee in the State of Alabama or any office, premises, establishment, or place where the practice of funeral service is carried on, or where the practice is advertised as being carried on, for the purpose of inspecting the office, premises, or establishment and for the purpose of inspecting the license and registration of any funeral service licensee and apprentice

trainee operating therein.

All members of the board or designated employees of the board are hereby authorized to serve and execute any process issued by any court under the provisions of this chapter and to serve and execute any papers or process issued by the board or any officer or member thereof under authority of this chapter.

(j) The board may employ clerical assistants and employees or other help as may be necessary to carry out the provisions of this chapter, and the terms and conditions of employment shall be determined by the board. The board may establish and equip an office from which the provisions of this chapter may be carried out.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 6; Acts 1981, No. 81-200, p. 234, § 4; Acts 1995, No. 95-517, p. 1047, § 1.)

§ 34-13-24. Oath of members.

[AL ST SEC 34-13-24]

Current through the end of the 2010 Regular Session.

Every member of the board, after appointment and before entering upon his or her duties, shall make oath before some officer competent to administer oaths, that he or she is legally qualified to become a member of the board under the provisions of this chapter and that he or she will faithfully perform the duties of such office, a copy of which shall be filed in the office of the Secretary of State.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 7.)

§ 34-13-25. Hearings to be public; record of proceedings.

[AL ST SEC 34-13-25]

Current through the end of the 2010 Regular Session.

All hearings provided for by this chapter shall be open to the public, and a report and record of proceedings of each hearing shall be made at the expense of the board. A copy of such report and record shall be furnished to any interested party, upon request and tender to the executive secretary of the board of the reasonable cost of preparation thereof.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 31.)

§ 34-13-26. Promulgation of rules and regulations; authority to hold hearings; restraining of violations.

[AL ST SEC 34-13-26]

Current through the end of the 2010 Regular Session.

(a) The board has the power to adopt and enforce for the protection of the public health, safety, and welfare reasonable rules and regulations.

(b) The rules and regulations of the board shall not become effective until they have been published and discussed at a public hearing and have been filed in the office of the Secretary of State; and, when so filed, such rules and regulations shall be in full force and have the effect of law. The board shall mail notice of such hearing to each licensee under this chapter 15 days

before the date of such hearing.

(c) All rules and regulations adopted by the board shall be referenced to the section or sections of this chapter which set forth the legislative standard which it interprets or to which it applies. Every rule and regulation shall be in writing, promulgated by an order, state its effective date, indexed in a permanent book which shall be a permanent record, and a true copy shall be filed in the office of the Secretary of State of Alabama. A copy of every order promulgating a rule, regulation, or other order containing a requirement of general application shall be mailed to each licensee by first class mail. The failure of a licensee to receive a copy of the rule, regulation, or order shall not exempt or excuse him or her from the duty of compliance with the valid rules, regulations, or orders lawfully issued.

(d) The board shall have power to hold hearings, conduct investigations, subpoena witnesses, administer oaths, and take testimony in order to carry out the provisions of this chapter.

(e) A court of competent jurisdiction may, upon application of the board, restrain violations or refusals to comply with the provisions of this chapter or the regulations of the board.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 34.)

§ 34-13-27. Seal; scope of rules and regulations.

[AL ST SEC 34-13-27]

Current through the end of the 2010 Regular Session.

The board shall adopt a common seal, which may be altered as often as the board may desire, and may adopt and enforce, for the protection of the public health, safety, and welfare, reasonable rules and regulations relating to:

(1) The practice of the profession of embalming, including, but not limited to, solicitation of business;

(2) The practice of the profession of funeral directing, including, but not limited to, solicitation of business;

(3) The sanitary condition and physical facilities of funeral homes, mortuaries, and funeral establishments where the profession of embalming and funeral directing is carried on, with particular regard to plumbing, sewage, disinfecting, ventilation, and equipment;

(4) Carrying out generally the various provisions of this chapter for the protection of the peace, health, safety, and welfare of the public; and

(5) Carrying out a program for training of apprentice embalmers and apprentice funeral directors.

CREDIT(S)

(Acts 1975, No. 214, p. 705, §§ 8, 34.)

§ 34-13-28. Annual report.

[AL ST SEC 34-13-28]

Current through the end of the 2010 Regular Session.

On or before April 1 of each year, the board shall report to the Governor and to the Legislature a full statement of the receipts and disbursements of the board during the preceding year and full statement of its doings and proceedings and such recommendations as it may deem proper.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 36; Acts 1981, No. 81-200, p. 234, § 4.)

§ 34-13-29. Audit and payment of expenses.

[AL ST SEC 34-13-29]

Current through the end of the 2010 Regular Session.

All necessary expenses incurred in giving examinations to applicants and incidental to the renewal of licenses and all necessary expenses incurred in education and enforcing the provisions of this chapter shall be audited by the Examiner of Public Accounts and paid from the funds provided for in this chapter in the same manner as other claims against the state are paid after due approval thereof by the chairman and executive secretary of the board.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 37.)

§ 34-13-30. Transfer of funds. Repealed by Acts 1981, No. 81-200, p. 234, § 5, effective April 7, 1981. [AL ST SEC 34-13-30]

Current through the end of the 2010 Regular Session.

§ 34-13-31. Appeal from decision of board.

[AL ST SEC 34-13-31]

Current through the end of the 2010 Regular Session.

(a) Whenever, by decision, final order or other final determination upon any public hearing provided for by this chapter, a party to such hearing shall feel aggrieved, an appeal may be taken to the circuit court for the county within which such party resides or, if he or she is not a resident of Alabama, then to the circuit court for the county within which the hearing was held. However, if there is more than one appellant, the circuit court having jurisdiction to hear the appeal of the first appellant filing a notice of appeal shall have jurisdiction to hear all appeals arising from the same hearing, irrespective of the place of residence of the appellants.

(b) On taking and perfecting an appeal to the circuit court having jurisdiction thereof, the court shall proceed as in other cases.

(c) All appeals shall be taken within 30 days from the date of the action or order made the basis of the appeal and shall be granted as a matter of right and be deemed perfected by filing with the board a bond for security of costs of the appeal. Upon filing of a verified petition and hearing thereon, the court may, in its discretion, stay the order appealed from pending final judicial review. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, rule, or ruling appealed from. The court shall otherwise hear the case upon the record as certified to the court by the executive secretary of the board and shall set aside the order, rule, or action appealed from if the court finds that the board erred to the prejudice of the appellant's substantial rights in its application of the law; or, the order, decision, or award was procured by fraud or was based upon a finding of facts contrary to the substantial weight of the evidence, or that the order was arbitrary, capricious, or inconsistent with respect to any of the material issues involved; or that the board failed in its order to find sufficient facts as to each material issue involved to enable the court to determine the basis for the conclusion of the board. The court may, instead of setting aside the order, remand the case to the board for further proceedings in conformity with the direction of the court. The court may, in advance of

judgment and upon a sufficient showing, remand the cause to the board for the purpose of taking additional testimony or other proceedings.

(d) An appeal may be taken from the judgment decree or any appealable order of the circuit court to the Supreme Court of this state. Appeals to the Supreme Court shall be taken, perfected, heard, and determined in the manner prescribed by law and the Alabama Rules of Appellate Procedure for taking, perfecting, hearing, and determining appeals to the Supreme Court.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 32.)

ARTICLE 3. . LICENSES, EXAMINATIONS, AND REGISTRATION.

DIVISION 1. . GENERAL PROVISIONS.

§ 34-13-50. Board recognition of schools and colleges.

[AL ST SEC 34-13-50]

Current through the end of the 2010 Regular Session.

The Alabama Board of Funeral Service shall recognize and approve and accept applicants for examination from only those established embalming schools or colleges which are recognized by the board. The board shall recognize and approve any embalming school or college approved by the American Board of Funeral Service Education, and any additional embalming schools or colleges which, in the judgment of the board, offer courses of study which generally include the subjects set out in Section 34-13-94. The Alabama Board of Funeral Service shall not examine or issue an embalmer's license to any person who does not hold a certificate of graduation from an embalming school or college meeting the criteria or standards as defined in this section.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 20.)

§ 34-13-51. Reciprocity of licenses.

[AL ST SEC 34-13-51]

Current through the end of the 2010 Regular Session.

(a) The board may, but shall not be required to, recognize and issue, without examination, and upon payment of a fee of one hundred dollars (\$100) for each license, a reciprocal license for the practice of funeral directing or embalming to any person licensed as a funeral director or embalmer by any state, if the board makes an individual determination that the applicant's qualifications meet or exceed the minimum qualifications required for funeral directors or embalmers in this state and that a written examination of such applicant would be superfluous.

(b) Applications shall be made on forms prescribed and furnished by this board. An applicant holding a funeral director or embalmer license from another state, and applying for a funeral director or embalmer license in Alabama shall be considered for licensing by reciprocity.

(c) The board shall at the time of the application make a reasonable determination that the applicant is a legal resident of the United States or legally present in this state. The board reserves the right to require applicants for reciprocity to submit to a personal interview or a written examination relating to the law as it pertains to the regulation of the funeral service profession in Alabama.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 19; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1; Act 2006-598, p. 1635, § 1; Act 2008-91, p. 118, § 3.)

§ 34-13-52. Execution and display of licenses.

[AL ST SEC 34-13-52]

Current through the end of the 2010 Regular Session.

(a) Licenses under this chapter shall be granted to individuals upon the qualification and successful examination of the individual applicant and shall specify the name to whom it is issued.

(b) Every license issued under this chapter shall be signed by the chairman and executive secretary of the board and shall be displayed in the place of business or employment of the licensee.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 21.)

§ 34-13-53. Renewal of licenses; authorization; attestation of identity; records.

[AL ST SEC 34-13-53]

Current through the end of the 2010 Regular Session.

(a) Every licensed funeral director, every licensed embalmer, and every licensed operator shall pay annually a fee for renewal of his or her license. The renewal fees shall be set by the board at a rate not to exceed fifty dollars (\$50) for licensed embalmers and funeral directors and shall not exceed one hundred dollars (\$100) for licensed operators.

(b) All licenses granted under this chapter shall expire on October 1, following their issuance or renewal, and shall become invalid unless renewed as provided in this section. There shall be no proration of licenses.

(c) The board shall mail on or before August 1 of each year to each licensed funeral director, to each licensed embalmer, and to each licensed operator addressed to him or her at his last address, a notice that his or her renewal fee is due and payable and that, if such fee is not paid by October 1, the license shall lapse.

(d) At the time, or before, a licensee changes place of employment, residence address, or makes any other change in status which is of record at the board office, the licensee shall report such change of status, on a form provided by the board, to the executive secretary.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 22; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1; Acts 1983, No. 83-746, p. 1235, § 1; Act 2002-239, p. 498, § 2.)

§ 34-13-54. Transferability.

[AL ST SEC 34-13-54]

Current through the end of the 2010 Regular Session.

No license to an embalmer, a funeral director, or a funeral establishment granted under or regulated by this chapter shall be transferable or assignable.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 10.)

§ 34-13-55. Reinstatement of lapsed licenses.

[AL ST SEC 34-13-55]

Current through the end of the 2010 Regular Session.

When a licensee, for any reason, has allowed his license to lapse, the board hereby is given power of reinstatement, in its discretion, if application therefor is made within a period of six months from the lapse and is accompanied by payment of all penalties and lapsed fees, from the time of the lapse to date of reinstatement. The penalties to be paid to the board shall be \$25.00 to reinstate licenses which have lapsed.

After the six-month period has elapsed, such license may be reinstated only by complying with the provisions hereinabove relating to the issuance of an original license in addition to payment of all lapsed fees and penalties.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 24; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1.)

§ 34-13-56. Grounds for revocation, suspension, or refusal to issue or renew licenses; fines.

[AL ST SEC 34-13-56]

Current through the end of the 2010 Regular Session.

(a) The board may refuse to grant, refuse to renew, or suspend or revoke a license after proper hearing and notice to the licensee, upon the licensee's being found guilty of any of the following:

- (1) Conviction of a crime involving moral turpitude.
- (2) Unprofessional conduct, which is defined to include any of the following:
 - a. Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer.
 - b. False or misleading advertising as a funeral director or embalmer or knowingly engaging in any advertising which is misleading or inaccurate in any material particular.
 - c. Solicitation of dead human bodies by the licensee, his or her agents, assistants, or employees, whether the solicitation occurs after death or while death is impending.
 - d. Employment by the licensee of a person or persons to be used for the purpose of obtaining or soliciting funeral directing or embalming business.
 - e. Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee, or other person, on part or full time or on commission, for the purpose of calling upon individuals or institutions where a death has occurred or is imminent by whose influence dead human bodies may be turned over to a particular funeral director or embalmer or funeral establishment, or both.
 - f. The buying of business by the licensee, his or her agents, assistants, or employees.
 - g. Gross immorality.
 - h. Aiding or abetting an unlicensed person to practice funeral directing or embalming.
 - i. Using profane, indecent, or obscene language in the presence of a dead human body, or within the immediate hearing of the family or relative of a deceased whose body has not yet been interred or otherwise disposed of.
 - j. Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any mausoleum or cemetery.

- k. Any violation of this chapter.
- l. Any violation of state law or municipal or county ordinance or regulation affecting the handling, custody, care, or transportation of dead human bodies.
- m. Fraud or misrepresentation in obtaining a license.
- n. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof.
- o. Performing services in a professional capacity as a funeral director or embalmer, or both, for any unlicensed funeral establishment operating in violation of this chapter.
- p. Being intoxicated or under the influence of illegal drugs while on duty at a funeral establishment.
- q. Willfully retaining or willfully failing to account for any property of a decedent.
- r. Knowingly and willfully signing a certificate as having embalmed or prepared a body for burial when, in fact the services were not performed by the licensee.

(b) In addition to the disciplinary actions authorized in subsection (a), the board may levy and collect administrative fines for violations of this chapter or the rules or regulations of the board in an amount not to exceed five hundred dollars (\$500) for each violation.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 25; Acts 1995, No. 95-517, p. 1047, § 2.)

§ 34-13-57. Secretary to mail notices of examination.

[AL ST SEC 34-13-57]

Current through the end of the 2010 Regular Session.

The executive secretary of the board shall mail notices to all applicants and all established funeral firms in the state 15 days before an examination, listing the names of all persons admitted by the board to take the examination and setting out the time and place of the examination.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 39.)

DIVISION 2.. FUNERAL DIRECTORS.

§ 34-13-70. License required; filing of application; fee; time and place for examination.

[AL ST SEC 34-13-70]

Current through the end of the 2010 Regular Session.

(a) No person shall engage in, or attempt to engage in, the practice or profession or business of a funeral director unless licensed to do so by the Alabama Board of Funeral Service. The board hereby is granted authority to issue license to funeral directors.

(b) Any person desiring to engage in the business, profession, or practice of funeral director shall make application to the board and shall accompany his or her application by a fee to be established by the board, not to exceed \$100.00, whereupon the board shall fix the time and place for the examination of the applicant and shall notify the applicant thereof.

(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination, however, in no event shall the fee exceed \$25.00 above the actual cost of preparing and administering such exam.

CREDIT(S)

(Acts 1975, No. 214, p. 705, §§ 9, 40; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-

709, p. 1190, § 1; Acts 1991, No. 91-196, p. 360, § 3.)

§ 34-13-71. Form and contents of application.

[AL ST SEC 34-13-71]

Current through the end of the 2010 Regular Session.

An application for a license as a funeral director shall be in writing and verified on a form provided by and addressed to the board and filed with the secretary of the board. The application must specify the address of the applicant and must be accompanied by the affidavits of at least two licensed embalmers or funeral directors to the effect that the applicant is of good character and has qualified himself or herself to become licensed as prescribed by this chapter.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 12.)

§ 34-13-72. Qualifications of applicants for examination.

[AL ST SEC 34-13-72]

Current through the end of the 2010 Regular Session.

An applicant for a funeral director's license is entitled to an examination if he or she satisfies all of the following:

(1) Is a citizen of the United States or legally present in this state.

(2) Is at least 18 years of age.

(3) Has had practical experience as an apprentice for not less than two years within a period of three consecutive years, excluding time lost by interruptions caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

(4) Has completed apprenticeship not more than two years prior to taking the examination, excluding time lost under the circumstances mentioned in subdivision (3).

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 13; Acts 1983, No. 83-746, p. 1235, § 1; Act 2008-91, p. 118, § 3.)

§ 34-13-73. Scope of examination.

[AL ST SEC 34-13-73]

Current through the end of the 2010 Regular Session.

The applicant for a funeral director's license, before the application is granted, shall successfully pass an examination upon, but not limited to, the following subjects: Funeral directing, the manners in which death may be determined, the laws governing the preparation and disposal of human dead bodies and the shipment of bodies dying from infectious or contagious diseases, and local health and sanitary ordinances in relation to funeral directing. The examination shall be prepared and graded as prescribed by rule of the board. The board may review and adopt, in whole or in part, examination questions, forms, examinations, and passing criteria proposed by the American Board of Funeral Service Education, or a successor organization, and may use the uniform nationwide conditions of the International Conference of Funeral Service Examining Boards, or other organization approved by the board.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 14; Act 2009-12, p. 22, § 3.)

§ 34-13-74. Application by surviving spouse upon death of funeral director; operation under special permit by operator.

[AL ST SEC 34-13-74]

Current through the end of the 2010 Regular Session.

(a) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the surviving spouse, or a surviving child of legal age, shall have the right to make application for examination as a funeral director. The application shall be in writing, on a form prescribed by the board, and shall state the facts pertaining to the case. The board may, in its discretion, certify the applicant for the examination prescribed for funeral directors, in which event the requirements with respect to prior experience and apprenticeship shall be waived.

(b) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the board may issue a special operating permit to the operator of such licensed funeral business for a period of 12 months, with the board having the right to extend the permit an additional reasonable time to afford such operator the opportunity of obtaining a licensed funeral director for such business. The operator shall be required to pay a fee for the issuance of the special operating permit in the amount of \$25.00.

(c) All human dead embalmed for a funeral establishment operating under a special operating permit and all funeral directing operations carried on under the permit shall be in conformance with all the requirements of this chapter which are not in conflict with this section.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 45.)

DIVISION 3.. EMBALMERS.

§ 34-13-90. License required; fees.

[AL ST SEC 34-13-90]

Current through the end of the 2010 Regular Session.

(a) No person shall follow, engage in or hold himself or herself out as engaged in the practice as an embalmer unless licensed to do so by the Alabama Board of Funeral Service. The board hereby is granted authority to issue licenses to embalmers.

(b) All persons shall qualify for examination in accordance with the provisions of this chapter and shall be licensed as an embalmer only after due examination by the board and the payment of an examination and license fee to be established by the board, not to exceed \$100.

(c) In addition, the board shall establish and charge a reasonable examination fee, based on actual costs, for each applicant who sits for an examination, however, in no event shall the fee exceed \$25 above the actual cost of preparing and administering such exam.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 10; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1; Acts 1991, No. 91-196, § 3.)

§ 34-13-91. Application for examination.

[AL ST SEC 34-13-91]

Current through the end of the 2010 Regular Session.

The applicant for an embalmer's license shall make application to the board and shall present himself or herself at the next meeting of the board for the examination of applicants. The application must be in writing and verified on a form provided by and addressed to the board and must be accompanied by the prescribed fee and by affidavits of at least two licensed embalmers to the effect that the applicant is of good moral character and has met all qualifications required for examination for license as prescribed by this chapter.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 16.)

§ 34-13-92. Qualifications of applicants for license.

[AL ST SEC 34-13-92]

Current through the end of the 2010 Regular Session.

In order to qualify for a license as an embalmer, the applicant shall satisfy all of the following:

(1) Be a citizen of the United States or legally present in this state.

(2) Be over 18 years of age.

(3) Be of good character.

(4) Have completed a two-year course of apprenticeship under an embalmer or embalmers licensed and engaged in practice as an embalmer in this state, and shall have completed the required course of apprenticeship within a period of three consecutive years, excluding time lost by interruption caused by the active duty of the applicant in the military service of the United States or its allies during war or national emergency, and excluding time lost by interruptions which the board deems excusable as caused by circumstances beyond the control of the applicant.

(5) Have completed a course of instruction in an embalming school or college which has been approved by the board as defined in Section 34-13-50.

(6) Have completed the course of apprenticeship not more than two years before the date of examination, excluding time lost under the circumstances mentioned in subdivision (4).

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 17; Acts 1983, No. 83-746, p. 1235, § 1; Act 2008-91, p. 118, § 3.)

§ 34-13-93. Examination of applicant for license.

[AL ST SEC 34-13-93]

Current through the end of the 2010 Regular Session.

The board shall hold a public examination at least once each quarter for the purpose of examining applicants for embalmer's license, as prescribed in Section 34-13-22, at such time and place as the board may determine. Notice of the time and place of the meeting shall be sent to the various applicants by mail at least 15 days before the meeting or examination.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 15.)

§ 34-13-94. Scope and conduct of examination.

[AL ST SEC 34-13-94]

Current through the end of the 2010 Regular Session.

(a) The board shall examine applicants for an embalmer's license in all of the following subjects:

- (1) Mortuary management and administration.
- (2) Legal medicine and toxicology.
- (3) Public health, hygiene, and sanitary science.
- (4) Mortuary science, to include embalming technique, in all aspects; chemistry of embalming, color harmony; discoloration, its causes, effect, and treatment; treatment of special cases; restorative art; funeral management; and professional ethics.
- (5) Anatomy and physiology.
- (6) Chemistry, organic and inorganic.
- (7) Pathology.
- (8) Bacteriology.
- (9) Sanitation and hygiene.
- (10) Public health regulations.
- (11) Other courses of instruction in fundamental subjects as may be prescribed by the board.

(b) To constitute a passing grade, an applicant shall receive an average mark of not less than 70 percent on all subjects. Where the applicant has received a mark of less than 70 percent in one or more subjects, such applicant shall not be passed, notwithstanding that his or her average mark may be higher than 70 percent.

(c) The board may issue an embalmer's license to an applicant who receives a passing grade on a recognized national embalmer's examination approved by the board.

(d) If the board is satisfied that the applicant has the requisite qualifications to practice the occupation of embalming, a license shall be issued to him or her authorizing him or her to practice such occupation until October 1 of that year, at which time the license may be renewed as prescribed in this chapter.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 18; Act 2009-12, p. 22, § 3.)

DIVISION 4. . FUNERAL ESTABLISHMENTS.

§ 34-13-110. Operation through licensed director or embalmer; change of name.

[AL ST SEC 34-13-110]

Current through the end of the 2010 Regular Session.

Any person, corporation, partnership, society, or group owning or operating a funeral establishment coming within the provisions of this chapter may do so only through the services of a licensed funeral director or embalmer. No person not licensed as a funeral director or embalmer shall be permitted to perform the functions of a funeral director or embalmer as herein defined or hold himself or herself out to the public as such by reason of his or her ownership in a funeral establishment or by reason of his or her ownership of stock owned in or office held in a corporation to own or operate a funeral establishment. After September 10, 1975, no firm or

corporation authorized to own and operate a funeral establishment may change or amend its name or charter so as to include in its firm or corporate name the name of any person who is not individually licensed as a funeral director in this state; provided, that the provisions of this sentence shall not be applicable to the name of any firm or corporation owning or operating a funeral establishment on September 10, 1975, so long as such firm or corporation remains under the same ownership.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 40.)

§ 34-13-111. License required; inspections; transfer of license.

[AL ST SEC 34-13-111]

Current through the end of the 2010 Regular Session.

(a) No funeral establishment or branch thereof for the preparation, disposition, and care of dead human bodies shall be opened or maintained unless duly licensed by the board. No funeral establishment or branch shall be moved without obtaining a new funeral establishment license from the board.

(b) The board shall charge a fee of \$35 in addition to the license fee for the first inspection of any funeral establishment seeking a license under Section 34-13-72 made for the purpose of determining whether such funeral establishment has fulfilled the requirements for licensure hereunder. The board shall charge a fee of \$75 for each reinspection necessitated by failure of any funeral establishment to pass such first inspection. All funeral establishments and branches shall be inspected by the board, or its representatives, at least once annually, with an inspection fee of \$35, and shall meet and conform to the provisions of this chapter and to such other lawful standards and requirements as may be determined by rule of the board in furtherance of the provisions of this chapter; and, for failure to do so, the board may revoke such license in accordance with the procedure set forth in this chapter.

(c) Applications for transfer of a license to another location in the same county shall be made upon blanks furnished by the board and shall be accompanied by a fee of \$25. The fee for a new branch or location for a funeral establishment shall be \$250. Any change in ownership must be immediately reported to the board.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 44; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1; Acts 1983, No. 83-746, p. 1235, § 1.)

§ 34-13-112. Employment of embalmer or director by other establishments; supervision and control; licensing of establishment not to license embalmer or director.

[AL ST SEC 34-13-112]

Current through the end of the 2010 Regular Session.

No application for a license of a funeral establishment shall be considered which does not show on the application that a licensed funeral director and licensed embalmer are employed by the establishment. This section shall not be construed to require a full-time licensed embalmer at each funeral establishment. No funeral establishment shall be licensed except upon the basis of a licensed funeral director. All embalming must be performed under a licensed embalmer, but

such licensed embalmer shall not be restricted from working for more than one funeral establishment.

No licensed funeral director, based upon whose license or licenses a funeral establishment license has been issued, may serve as the regularly employed licensed funeral director at another funeral establishment which is owned by a different person, firm, or corporation at the same time for the purpose of qualifying such other establishment under this chapter.

It is hereby declared to be the legislative intent of this chapter that every funeral establishment in this state shall be operated under the full charge, control, and supervision of an individually licensed funeral director or a person licensed both as a funeral director and as an embalmer; provided, that this section shall not preclude an unlicensed person from being in charge of the bookkeeping or records of such an establishment. The name of the licensed person to be in charge of each funeral establishment shall be stated on the application for all licenses or renewal of such licenses.

The issuance of a license to operate a funeral establishment to a person who is not individually licensed as a funeral director or embalmer does not entitle the person to practice embalming or funeral directing, as defined by this chapter, it being the intent of this chapter that such practice may be performed only through individually licensed funeral directors and embalmers; and, in addition to all other grounds for suspension of a funeral establishment license as enumerated in this chapter, a funeral establishment license shall be revoked by the board upon hearing thereon if any person, whether owner, officer, stockholder, or otherwise, who is connected with the funeral home shall perform any of the functions of a funeral director or embalmer as defined herein or shall hold himself or herself out as a funeral director.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 43.)

§ 34-13-113. Application for license; inspection of establishment; issuance of license. [AL ST SEC 34-13-113]

Current through the end of the 2010 Regular Session.

(a) Application for a license to operate a funeral establishment shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee to be established by the board, not to exceed \$300. The application shall disclose:

- (1) The name and address of the establishment;
- (2) That the establishment is operated by a licensed funeral director and a licensed embalmer or a person licensed both as a funeral director and embalmer;
- (3) A description of the establishment's buildings, equipment, and facilities;
- (4) That the establishment has a sanitary, properly equipped embalming room, a place for the conduct of funerals, and a casket selection room stocked with an average selection of caskets; and
- (5) Such other information as may be required by the board.

(b) Upon receipt of the application, the board shall make inspection of the funeral establishment. If the board determines that the establishment meets the qualifications prescribed by law, it shall issue the license.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 41; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709,

p. 1190, § 1.)

§ 34-13-114. Reissuing license when name of establishment changed.

[AL ST SEC 34-13-114]

Current through the end of the 2010 Regular Session.

An operator of a funeral establishment licensed under the provision of Section 34-13-113 and who desires to change the name of the establishment may have his or her license reissued to him or her, in the changed name, upon application to the board and payment of a fee of \$25.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 23.)

§ 34-13-115. Revocation, suspension, or refusal to renew license.

[AL ST SEC 34-13-115]

Current through the end of the 2010 Regular Session.

(a) The board may revoke, suspend, or refuse to renew a license issued to an operator of a funeral establishment as provided in this chapter.

(b) If, upon a complaint made to it or otherwise, the board has reason to believe that the operator of a funeral establishment has failed to comply with the provisions of this chapter or the regulations of the board, it shall conduct an investigation. If it appears to the board that there is reasonable ground to believe that the operator has failed so to comply, it shall conduct a hearing on the matter. Notice of the time and place of the hearing, setting forth the respects in which failure to comply is charged, shall be sent to the operator no later than 15 days prior to the date set for the hearing. The operator may have the assistance of counsel at the hearing.

(c) If, upon the hearing, the board finds that the operator has failed to comply with the provisions of this chapter or the regulations of the board, it may revoke, suspend, or refuse to renew the license.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 33.)

§ 34-13-116. Penalty for failure to register.

[AL ST SEC 34-13-116]

Current through the end of the 2010 Regular Session.

Any person, firm, partnership, society, group, or corporation who has control of a funeral home, mortuary, chapel, or funeral establishment, as defined in this law, and fails to register same according to the provisions of this chapter, upon conviction, may be fined not less than \$300 nor more than \$500 for each violation, and each day that the funeral home, mortuary, chapel, or funeral establishment is operated shall be deemed to be a separate and distinct violation of this chapter.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 42.)

DIVISION 4A. . CREMATION SERVICES.

§ 34-13-120. License required; affidavit of training, etc.; inspections; records.

[AL ST SEC 34-13-120]

Current through the end of the 2010 Regular Session.

(a) It shall be unlawful for any person, firm, corporation, association, or entity to operate a crematory or practice cremation without the crematory being licensed as a funeral establishment in accordance with this chapter.

(b) Any funeral establishment performing cremation services shall certify by affidavit to the board that any cremationist conducting cremations has received adequate and appropriate training or experience in the practice of cremation.

(c) The board shall adopt and enforce rules and regulations as may be reasonable and necessary for the operation of crematories to protect the health, welfare, and safety of the people of this state.

(d) The board shall inspect the records and premises of any funeral establishment operating a crematory. In making inspections, the board shall have access to all records, the crematory building, the cremation chambers or furnaces, and the storage areas for human remains before and after cremation, during regular office hours or the hours the crematory is in operation. No prior notification of the inspection is required to be given to the funeral establishment. If any funeral establishment performing cremation services fails to allow an inspection or any part thereof, it shall be grounds for the suspension or revocation of a license or other disciplinary action against the licensee, as the board may deem reasonable and necessary to the extent of the law. The board shall conduct annually a minimum of one unannounced inspection of each licensed funeral establishment performing cremation services.

(e) Each funeral establishment performing cremation services shall keep records as required by the board to assure compliance with all laws relating to the disposition of human remains and shall file annually with the board a report in the form prescribed by the board, describing the operations of the licensee, including the number of cremations made, the disposition thereof, and any other information as the board may, from time to time, require.

(f) Each funeral establishment performing cremation services shall report to the board any maintenance or inspections performed by the manufacturer within 30 days of the maintenance or inspection.

(g) A funeral establishment performing cremation services shall be subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the Alabama Board of Funeral Service, the federal and state Departments of Health and Human Services, and the state and federal Environmental Protection Agencies, or other appropriate local, state, or federal agencies.

CREDIT(S)

(Act 2002-239, p. 498, § 3.)

§ 34-13-121. Cremation procedures; authorization; attestation of identity; records. [AL ST SEC 34-13-121]

Current through the end of the 2010 Regular Session.

(a) Human remains shall not be cremated within 24 hours after the time of death, unless death was a result of an infectious, contagious, or communicable disease and unless the disease is verified and the time requirement waived by a medical examiner, county health director, county coroner, or attending physician where the death occurred.

(b) A cremation authorization form prescribed by the board shall be signed by the authorizing

agent and must accompany any request for cremation. A copy of the cremation authorization shall be presented with the body to the crematory before any cremation process may be initiated.

(c) It shall be disclosed to the family member serving as the authorizing agent that he or she, or his or her designee, may witness the transportation of the human remains to be cremated to the crematory. Every funeral establishment performing cremation services that prohibits relatives or the responsible party from viewing the cremation process shall disclose this fact in writing to the person or persons entitled to custody of the remains prior to the signing of any contract.

(d) An authorizing agent has the duty to inform the funeral director of the presence of a pacemaker or other potentially hazardous implant, including any toxic or explosive-type sealed implants in the human remains. The funeral director shall be responsible for ensuring that all necessary steps have been taken to remove the pacemaker before delivering the human remains to the crematory. Should the cremationist discover the presence of a pacemaker or other hazardous implants in the human remains, the cremationist shall arrange for the removal of the pacemaker or other hazardous implant.

(e) The simultaneous cremation of the human remains of more than one person within the same retort, without the prior written consent of the authorizing agent, is prohibited. It is hereby the declared intent of this subsection that establishments performing cremations in accordance with this chapter may cremate only dead human remains.

(f) Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the retort and placed in a separate container and may not be commingled with cremated remains of another person nor shall cremated remains of a dead human be divided or separated without the prior written consent of the authorizing agent.

(g) Each funeral establishment which offers or performs cremations shall maintain an identification system that ensures its ability to identify the human remains in its possession throughout all phases of the cremation process. Upon completion of the process, the cremationist must attest to the identity of the cremated remains, and the date, time, and place the cremation process occurred on a form issued by the board. The form shall accompany the human remains in all phases of transportation, cremation, and return of cremated remains.

(h) Each funeral establishment and cremationist which offers or performs cremations shall maintain a record of all cremations performed, which shall include the name of the decedent, the date of death, the date and time of the cremation, the signature of the cremationist performing the cremation, a copy of the authorization for cremation, a copy of the affidavit attesting to the cremation, and, if the cremation is performed for any other funeral establishment or entity, the identity of this establishment or entity.

(i) Human remains must be delivered to a crematory in a combustible cremation container. Human remains shall not be removed from the cremation container and the cremation container shall be cremated with the human remains, unless the authorizing agent has been informed in writing that the crematory does not cremate metal containers.

CREDIT(S)

(Act 2002-239, p. 498, § 3.)

§ 34-13-122. Disposition of cremated remains.

[AL ST SEC 34-13-122]

Current through the end of the 2010 Regular Session.

(a) The authorizing agent shall provide to the funeral establishment which the cremation

arrangements are made a signed statement specifying the ultimate disposition of the cremated remains, if known. A copy of this statement shall be retained by the funeral establishment offering or conducting the cremation.

(b) Cremated remains shall be shipped only by a method that has an internal tracing system available and that provides a receipt signed by the person accepting delivery.

(c) The authorizing agent is responsible for the disposition of the cremated remains. If, after 60 days from the date of cremation, the authorizing agent or his or her representative has not specified the ultimate disposition or claimed the cremated remains, the funeral establishment or entity in possession of the cremated remains may dispose of the cremated remains in a dignified and humane manner and in accordance with any state, county, or municipal laws or provisions regarding the disposal of cremated remains. A record of this disposition shall be made and kept by the entity making the disposition. Upon disposing of cremated remains in accordance with this section, the funeral establishment or entity in possession of the cremated remains shall be discharged from any legal obligation or liability concerning the cremated remains.

CREDIT(S)

(Act 2002-239, p. 498, § 3.)

DIVISION 5.. APPRENTICES.

§ 34-13-130. Application for issuance of apprentice's certificate; term of apprenticeship. [AL ST SEC 34-13-130]

Current through the end of the 2010 Regular Session.

(a) Every person desiring to engage as an apprentice shall make application as a funeral director's apprentice or an embalmer's apprentice to the board upon a form provided by the board. The application shall state that the applicant is over the age of 16, holds a high school certificate or the equivalent, or is currently enrolled and actively working toward graduation from an accredited high school and is of good moral character. The application must be verified by the oath of applicant and be accompanied by a fee to be established by the board, not to exceed \$20.00. The executive secretary of the board shall, whenever it appears to him or her that no reason exists for the denial of an application and that the application is regular upon its face, have the power to issue to the applicant a certificate of apprenticeship, without submitting the application to the board. If, however, any doubt exists as to the qualifications of the applicant, the application shall be submitted to the board and may be accepted or rejected by a majority of the board. The period of apprenticeship of a funeral director's apprentice or an embalmer's apprentice must be performed in Alabama under the supervision of a funeral director or embalmer, respectively, licensed by the Alabama Board of Funeral Service.

(b) The regular course of apprenticeship shall be two years, but the apprentice is entitled to two weeks time off each year, without leave of absence from the board. Any applicant for an apprentice certificate or license shall be credited with all time served as such as an apprentice embalmer or funeral director prior to September 10, 1975, upon filing of two affidavits confirming such service by a licensed embalmer or funeral director under whom such service was performed.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 26; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1.)

§ 34-13-131. Annual renewal of certificate.

[AL ST SEC 34-13-131]

Current through the end of the 2010 Regular Session.

A certificate of apprenticeship issued as provided for herein shall be signed by the apprentice and shall be renewable annually upon the payment by the holder by October 1 of each year of an annual renewal fee to be established by the board, not to exceed \$20.00. Failure to pay the renewal fee by the prescribed date of any year shall cause the certificate to become delinquent, in which case it shall be renewed only for good cause shown. No person may be granted a certificate of apprenticeship as funeral director's apprentice or embalmer's apprentice, respectively, for more than three consecutive years, excepting as provided. The board shall mail, on or before August 1 of each year, to each registered apprentice at his or her last known address, a notice that his or her renewal fee is due and payable and that, if not paid by October 1, his or her license will lapse.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 27; Acts 1981, No. 81-200, p. 234, § 4; Acts 1981, No. 81-709, p. 1190, § 1.)

§ 34-13-132. Annual report of apprentices.

[AL ST SEC 34-13-132]

Current through the end of the 2010 Regular Session.

All apprentices registered as provided in this chapter shall be under the supervision and control of the board and shall be required to report to the board annually on January 1, upon forms provided by the board, showing the work which such apprentices have performed during the annual period preceding the first of the month on which the report is made, including the number of hours served and the number of bodies the apprentice has assisted in embalming or otherwise prepared for disposition during such period. The information contained in the report shall be certified to as correct by the funeral director by whom the apprentice has been employed during such period.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 28.)

§ 34-13-133. Leave of absence.

[AL ST SEC 34-13-133]

Current through the end of the 2010 Regular Session.

The board has power to grant leaves of absence and to grant extensions thereof to apprentices registered under the provisions of this chapter. However, no credit shall be given to an apprentice upon his or her apprenticeship for the period during which he or she is absent from duty on leave, and no more than an aggregate of 12 months' leave of absence shall be granted to any apprentice during the term of his or her apprenticeship. Application for leave of absence and for extension thereof shall be made by the apprentice upon a form provided by and addressed to the board. Upon the termination of a leave of absence or any extension thereof, the apprentice shall report to the board the fact that he or she has resumed his or her duties as an apprentice and certified to by the funeral director under whom he or she has resumed his or her duties or by the embalmer under whom he or she is apprenticed, confirming this fact. Failure to so report within 30 days after the expiration date of any leave of absence or extension thereof shall automatically

cancel the registration of the apprentice.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 29.)

§ 34-13-134. Grounds for suspension and revocation of certificates; reregistration when certificate has lapsed or is revoked.

[AL ST SEC 34-13-134]

Current through the end of the 2010 Regular Session.

(a) The board has power to suspend or revoke a certificate of apprenticeship, after notice and upon hearing, where the apprentice is guilty of any of the following acts or omissions:

- (1) Failure to devote not less than an average of 30 hours per week to the duties of his or her apprenticeship;
- (2) Failure to make an annual report to the board as required by this chapter;
- (3) Absence from duty except on vacation for an aggregate of more than 10 days in any six months or 20 days in any year, without leave of absence granted by the board;
- (4) Gross immorality;
- (5) Being on duty as an apprentice while under the influence of liquor or illegal drugs;
- (6) Disobedience of proper orders or instructions of his or her superiors;
- (7) Violation of any provision of this chapter or any rule or regulation of the board made under this chapter;
- (8) Soliciting business for a funeral director or for any embalmer; or
- (9) Fraud or misrepresentation in obtaining a certificate of registration as an apprentice.

(b) An apprentice who has allowed his or her certificate of apprenticeship to lapse or who has had his or her certificate of apprenticeship suspended or revoked may, within one year after such suspension or revocation, make application for registration but not more than two such registrations shall be allowed by the board. The board may, when the circumstances warrant, allow an apprentice credit under a reregistration for time actually served under a previous registration; except, that if the previous registration has been suspended or revoked upon any of the grounds set forth in subsection (a) of this section, not more than 75 percent of the time previously served shall be credited on the reregistration.

CREDIT(S)

(Acts 1975, No. 214, p. 705, § 30.)

ARTICLE 4. . DONOR EYE ENUCLEATION LICENSES.

§ 34-13-150. Issuance.

[AL ST SEC 34-13-150]

Current through the end of the 2010 Regular Session.

The Board of Funeral Service is authorized to issue a donor eye enucleation license to any embalmer or funeral director who makes written application to the Board of Funeral Service and complies with its standards, measures, and procedures, provided such applicant possesses the educational qualifications, standards of proficiency, and fitness prescribed by the board.

CREDIT(S)

(Acts 1976, No. 586, p. 798, § 1.)

§ 34-13-151. Promulgation of standards, procedures, regulations, etc., by Board of Funeral Service.

[AL ST SEC 34-13-151]

Current through the end of the 2010 Regular Session.

(a) The Board of Funeral Service is authorized to establish and promulgate standards, measures, procedures, and regulations necessary to assure that any licensee under this article possesses the knowledge and technical skills to perform donor eyes enucleations acceptable as good ophthalmological and pathological procedure for the purposes of prohibiting unnecessary mutilation.

(b) The Board of Funeral Service is authorized to further prescribe, establish, and promulgate any standards and regulations necessary to effect the provisions of this article.

CREDIT(S)

(Acts 1976, No. 586, p. 798, §§ 2, 4.)

§ 34-13-152. Compliance by licensee with Uniform Anatomical Gift Act.

[AL ST SEC 34-13-152]

Current through the end of the 2010 Regular Session.

Any person who holds a donor eye enucleation license shall comply with the applicable provisions of the "Alabama Uniform Anatomical Gift Act."

CREDIT(S)

(Acts 1976, No. 586, p. 798, § 3.)

Board Members

BOARD OF DIRECTORS

THOMAS MAYE
MONROEVILLE

NOAH TURNER
TROY

SAMUEL SEROYER
LAFAYETTE

JASON MAISE
GADSDEN

MICHAEL MORRISON
FLORENCE

TERRY WILSON
PELL CITY

RITA WOODS
LISMAN



STATE OF ALABAMA

ALABAMA BOARD OF FUNERAL SERVICE

ALABAMA STATEHOUSE
SUITE 204

11 SOUTH UNION STREET
MONTGOMERY, ALABAMA 36130

(334) 242-4049

STAFF

WARREN S. HIGGINS
EXECUTIVE SECRETARY

CHARLES M. PERINE
ASSOCIATE EXECUTIVE SECRETARY

SHERRY DAWSON
ADMINISTRATIVE ASSISTANT

MAILING ADDRESS:
P.O. BOX 309522
MONTGOMERY, AL36130-9522

April 5, 2011

Daniel Dupree
Examiners of Public Accounts
State of Alabama
Montgomery, AL 36130

Dear Mr. Dupree,

The following is a list of the members of our board who are currently serving for the 2011 calendar year, along with their positions, license status, addresses, date of appointment, expiration of term and race.

District One:

Thomas Maye, Funeral Director and Embalmer
Monroeville, AL 36461
January 1, 2007– December 31, 2008
January 1, 2011 – December 31, 2012, Black

District Two:

Noah Turner, Funeral Director and Embalmer
Prattville, AL 36066
January 1, 2011- December 31, 2012 (2011 – Secretary), Black

District Three:

Sammy Seroyer, Funeral Director
Lafayette, AL 36862
January 1, 2010 – December 31, 2011, Black

District Four:

Jason Maise, Funeral Director and Embalmer
Glencoe, AL 35905
January 1, 2008 – December 31, 2011 (2008 and 2009 –Treasurer), White

District Five:

Michael Morrison, Funeral Director and Embalmer
Florence, AL 35633
January 1, 2011 – December 31, 2012 (2011 -Vice Chairman), White

District Six:

Terry Wilson, Funeral Director and Embalmer

Pell City, AL 35125

January 1, 2010 – December 31, 2011 (2010-2011 Treasurer), White

District Seven:

Rita Woods, Funeral Director

Lisman, AL 36912

January 1, 2010 – December 31, 2011, (2011 - Chairman), Black

Our Agency's Legal counsel is Jeff Long, 334-242-7391, with the Attorney General's office.

I trust this information is sufficient. I can also state with relative certainty that I am not related to any of the
aforementioned members.

Sincerely,

A handwritten signature in dark ink, appearing to read "Warren S. Higgins".

Warren S. Higgins
Executive Secretary

WSH

BOARD RESPONSE TO SIGNIFICANT ISSUES

BOARD OF DIRECTORS

THOMAS MAYE MONROEVILLE

NOAH TURNER
TROY

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LAFAYETTE

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P.O. BOX 309522
MONTGOMERY, AL36130-9522

June 13, 2011

John Norris
Examiners of Public Accounts
State of Alabama
Montgomery, AL 36130

Dear Mr. Norris,

The following are responses to prior findings and significant items:

Significant Issue 2011-1: Proposed legislation in the form of SB94, sponsored by Senator Keahey and co-sponsored by Senator Ward, passed both the Senate and the House of Representatives and was sent to the Governor on June 2, 2011 and is currently awaiting his signature. SB94 will make significant changes to the current law; however, the changes made were made in order to strengthen the current law. After the bill is signed by the Governor and before the effective date of October 1, 2011, the Board will hold an administrative rulemaking hearing in order to amend the administrative regulations in order to comply with the statutory regulations.

Significant Issue 2011-2: Receipts are currently being deposited on a weekly basis with the goal of reducing the average time from receipt to deposit to seven days.

Significant Issue 2011-3: 2010 fiscal year SMART performance information was submitted in January 2011.

I trust these are adequate responses. If you need any additional information, please do not hesitate to notify me.

Sincerely,

Warren Higgins
Executive Secretary